

JONATHAN RODDEN, Ph.D. 8/20/2015

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

MISSOURI STATE CONFERENCE OF
THE NATIONAL ASSOCIATION FOR)
THE ADVANCEMENT OF COLORED)
PEOPLE, REDDITT HUDSON, F.)
WILLIS JOHNSON and DORIS)
BAILEY,)

)
Plaintiffs,)

)
vs.) Civ. No. 14-2077
)

FERGUSON-FLORISSANT SCHOOL)
DISTRICT and ST. LOUIS)
COUNTY BOARD OF ELECTIONS)
COMMISSIONERS,)
)

)
Defendants.)

DEPOSITION OF WITNESS, JONATHAN RODDEN, Ph.D.,
produced, sworn and examined on the 20th day of August,
2015, commencing at approximately 9:39 A.M. at the offices
of the American Civil Liberties Union of Eastern Missouri,
454 Whittier Street, St. Louis, Missouri, before BETH O.
ZINK, a Registered Professional Reporter, Missouri
Certified Court Reporter, Illinois Certified Shorthand
Reporter and Notary Public, in a certain cause now pending
in the United States District Court for the Eastern
District of Missouri, wherein MISSOURI STATE CONFERENCE OF
THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED
PEOPLE, ET AL. are Plaintiffs and FERGUSON-FLORISSANT
SCHOOL DISTRICT, ET AL. are Defendants.

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RODDEN DEPOSITION

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<p style="text-align: right;">Page 5</p> <p>1 IT IS HEREBY STIPULATED AND AGREED, by and between</p> <p>2 counsel for the Plaintiffs and counsel for the Defendants,</p> <p>3 that this deposition may be taken in shorthand by Beth O.</p> <p>4 Zink, a notary public and shorthand reporter, and</p> <p>5 afterwards transcribed into typewriting; and the signature</p> <p>6 of the witness is expressly reserved.</p> <p>7 (Roddan Deposition Exhibits 1 through 4 were</p> <p>8 previously marked for identification.)</p> <p>9 (Whereupon, the deposition commenced at</p> <p>10 approximately 9:39 A.M.)</p> <p>11 * * * * *</p> <p>12 JONATHAN RODDEN, Ph.D.,</p> <p>13 produced, sworn and examined on behalf of the Plaintiffs,</p> <p>14 deposes and says:</p> <p>15 DIRECT EXAMINATION,</p> <p>16 QUESTIONS BY MR. HO:</p> <p>17 Q. Good morning, Dr. Rodden.</p> <p>18 A. Good morning.</p> <p>19 Q. Could you state and spell your full name for</p> <p>20 the record.</p> <p>21 A. Jonathan, J-o-n-a-t-h-a-n, Andrew,</p> <p>22 A-n-d-r-e-w, Rodden, R-o-d-d-e-n.</p> <p>23 Q. And Dr. Rodden, you've been deposed before,</p> <p>24 correct?</p> <p>25 A. Yes, I have.</p>	<p style="text-align: right;">Page 7</p> <p>1 the attorneys on your side may object. As a general</p> <p>2 matter, you can still answer my question unless they</p> <p>3 instruct you specifically not to. Do you understand?</p> <p>4 A. Understood, yes.</p> <p>5 Q. Okay. It's okay to take breaks. Any time</p> <p>6 that you want to take a break, just let me know. The one</p> <p>7 thing I would ask is that if I've posed a question to you,</p> <p>8 you answer that question before taking your break. Is</p> <p>9 that okay?</p> <p>10 A. Yes.</p> <p>11 Q. Great. What did you do to prepare for today's</p> <p>12 deposition?</p> <p>13 A. I sat down with my expert reports and re-read</p> <p>14 them and I also read the reports from the plaintiffs'</p> <p>15 expert witnesses.</p> <p>16 Q. Did you do anything else?</p> <p>17 A. No.</p> <p>18 Q. Did you meet with your -- with the attorneys</p> <p>19 on your side?</p> <p>20 A. I arrived in town, I was here yesterday, and I</p> <p>21 did speak with them yesterday.</p> <p>22 Q. Okay. So in addition to preparing -- in</p> <p>23 addition to reviewing your reports, you also met with the</p> <p>24 attorneys to prepare for today's deposition?</p> <p>25 A. Not in the -- not -- we spoke about the case,</p>
<p style="text-align: right;">Page 6</p> <p>1 Q. I just want to very briefly go over some basic</p> <p>2 rules. This will be familiar to you, but just to refresh</p> <p>3 your memory. First, obviously there's a court reporter</p> <p>4 here who's transcribing everything that we say. The thing</p> <p>5 I'll ask is that if you could wait until I finish a</p> <p>6 question before giving your answer, and I'll wait until</p> <p>7 you finish your answer before asking the next question,</p> <p>8 that will keep -- help keep the record clear. Is that</p> <p>9 okay?</p> <p>10 A. Yes.</p> <p>11 Q. Great. And I'll also ask that you answer</p> <p>12 questions verbally. The court reporter can't take down</p> <p>13 gestures like head nods and shaking heads.</p> <p>14 A. Yes.</p> <p>15 Q. Is that okay?</p> <p>16 A. Yes.</p> <p>17 Q. Great. You understand today that you're under</p> <p>18 oath?</p> <p>19 A. Yes.</p> <p>20 Q. Under penalty of perjury?</p> <p>21 A. Yes.</p> <p>22 Q. Is there any reason that you cannot testify</p> <p>23 truthfully today?</p> <p>24 A. No.</p> <p>25 Q. From time to time when I ask questions, one of</p>	<p style="text-align: right;">Page 8</p> <p>1 but not really in the spirit of deposition preparation.</p> <p>2 Q. About how long did you meet?</p> <p>3 A. Maybe three, four hours.</p> <p>4 Q. Prior to that meeting yesterday, did you have</p> <p>5 any conversations with the attorneys on your side to</p> <p>6 prepare for today's deposition?</p> <p>7 A. No.</p> <p>8 Q. Okay. So just one meeting yesterday three or</p> <p>9 four hours?</p> <p>10 A. That's right.</p> <p>11 Q. Okay. I want to show you something that we've</p> <p>12 marked as Rodden Exhibit 1.</p> <p>13 MS. ORMSBY: Thank you.</p> <p>14 Q. Sure. This is your CV, Dr. Rodden?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Now, you've been a professor of</p> <p>17 political science at Stanford since 2007; is that right?</p> <p>18 A. Yes.</p> <p>19 Q. And prior to that, you were a professor of</p> <p>20 political science at MIT?</p> <p>21 A. Yes.</p> <p>22 Q. And that's -- you became a professor of</p> <p>23 political science at MIT in 1999; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. Now, from the look of your CV here, it seems</p>

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<p style="text-align: right;">Page 9</p> <p>1 you've published a number of peer-reviewed articles and</p> <p>2 book chapters; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. And you are on a number of selection</p> <p>5 committees for awarding prizes for political science</p> <p>6 scholarship; is that right?</p> <p>7 A. I have done those things, yes.</p> <p>8 Q. So is it fair to say that you're familiar with</p> <p>9 generally accepted standards for reliability for empirical</p> <p>10 research in the field of political science?</p> <p>11 A. Yes.</p> <p>12 Q. Also fair to say that you are familiar with</p> <p>13 professional and ethical guidelines for the conduct of</p> <p>14 research in political science?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. What would you describe as your primary</p> <p>17 area of research within the field of political science?</p> <p>18 A. My current primary area of research is in the</p> <p>19 field that I call political geography, and in particular I</p> <p>20 am interested in understanding the geographic distribution</p> <p>21 of political preferences and voting behavior as well as</p> <p>22 various demographic information.</p> <p>23 I'm interested in how these things are</p> <p>24 distributed in geographic space, especially in the context</p> <p>25 of cities, and I'm interested in what happens when</p>	<p style="text-align: right;">Page 11</p> <p>1 and political and fiscal decentralization, so I'm</p> <p>2 interested in local government more generally. And I, in</p> <p>3 fact, still work in that topic -- on that topic as well.</p> <p>4 Q. Have there been other areas of focus in terms</p> <p>5 of your research other than political geography and</p> <p>6 federalism?</p> <p>7 A. There's also been a body of work on what I</p> <p>8 call issue voting, so the extent to which -- extent to</p> <p>9 which people, when they go to cast a ballot in a vote, are</p> <p>10 thinking about economic issues versus social issues, by</p> <p>11 which I mean things like gay rights and abortion, the</p> <p>12 extent to which voting behavior has multiple issue</p> <p>13 components. I'm interested in the way those -- those</p> <p>14 issue preferences translate into voting behavior. I have</p> <p>15 some papers that I think fit pretty well under that topic,</p> <p>16 but I think those three overarching themes capture pretty</p> <p>17 well most of what I've done.</p> <p>18 Q. Beyond those three areas, political geography,</p> <p>19 fiscal federalism and issue voting, any other areas of</p> <p>20 focus in your research as a political scientist?</p> <p>21 A. I think those are three broad categories that</p> <p>22 capture most of my research.</p> <p>23 Q. And you consider yourself an expert on those</p> <p>24 three areas, political geography, fiscal federalism and</p> <p>25 issue voting?</p>
<p style="text-align: right;">Page 10</p> <p>1 electoral districts are mapped on top of those -- of those</p> <p>2 underlying features of geography. I'm interested in how</p> <p>3 those features of geography change over time and then what</p> <p>4 happens to the process of political representation when we</p> <p>5 draw those districts.</p> <p>6 So this is something that I study in many</p> <p>7 countries, but I have developed a particular interest in</p> <p>8 the United States and have been working a lot on that</p> <p>9 recently.</p> <p>10 Q. Is it fair to describe that topic with the</p> <p>11 term political geography, for shorthand?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. You said that's your current area of</p> <p>14 focus?</p> <p>15 A. Yes.</p> <p>16 Q. Have you had other areas of focus prior to</p> <p>17 that in your research?</p> <p>18 A. Yes. I spent a lot of time working on</p> <p>19 questions related to federalism and the vertical</p> <p>20 distribution of authority within political systems. So by</p> <p>21 that I mean the relationship between central governments,</p> <p>22 state or provincial governments, and local or municipal</p> <p>23 governments in countries around the world, in particular</p> <p>24 with respect to fiscal structures. So I've done a lot of</p> <p>25 work on the topic that one might call fiscal federalism</p>	<p style="text-align: right;">Page 12</p> <p>1 A. Yes.</p> <p>2 Q. Do you consider yourself an expert on</p> <p>3 residential segregation?</p> <p>4 A. Yes.</p> <p>5 Q. And what's your basis for considering yourself</p> <p>6 an expert on residential segregation?</p> <p>7 A. I have developed a course at Stanford that</p> <p>8 focuses heavily on residential segregation. I am the</p> <p>9 founder and director of the spatial social science lab at</p> <p>10 Stanford. A big focus of this group is residential</p> <p>11 segregation. We have been actively trying to understand</p> <p>12 patterns of segregation in different cities using very</p> <p>13 fine-grained data.</p> <p>14 We have been looking at residential</p> <p>15 segregation by race using data, block-level data from</p> <p>16 different censuses, and as I described earlier, one of my</p> <p>17 interests in particular is political segregation. I have</p> <p>18 developed a data set that is now being used widely in the</p> <p>19 field by lots of people. It is a precinct-level data set</p> <p>20 of election results that allow us to put together</p> <p>21 information on race and information on voting behavior at</p> <p>22 the level of precincts really for the first time. So I've</p> <p>23 been using that to understand patterns of residential</p> <p>24 segregation within cities, by both race and partisanship,</p> <p>25 and that's something that I've been doing in a number of</p>

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<p>1 cities.</p> <p>2 I've also looked at residential -- patterns of</p> <p>3 residential segregation in other countries. I'm very</p> <p>4 interested in how urban form in the United States is</p> <p>5 different from urban form in other places, and so</p> <p>6 particular suburbanization is a topic on which I've -- to</p> <p>7 which I've given a great deal of attention.</p> <p>8 Q. You have your CV in front of you.</p> <p>9 A. Yes.</p> <p>10 Q. Could you just give me a few examples of some</p> <p>11 of your peer-reviewed research on the issue of racial</p> <p>12 segregation.</p> <p>13 A. This is an area that I have -- of research</p> <p>14 I've moved into recently. I do not have a peer-reviewed</p> <p>15 article yet that is -- that focuses on urban form as I</p> <p>16 just described it. There is a paper here that is</p> <p>17 published in the -- in the Annual Review of Political</p> <p>18 Science called the Geographic Distribution of Political</p> <p>19 Preferences, which goes into some detail about questions</p> <p>20 of -- involving the residential -- the distribution of</p> <p>21 residential patterns in the United States in particular</p> <p>22 and talks about the way in which patterns of segregation</p> <p>23 within cities shape the overall distribution of political</p> <p>24 preferences.</p> <p>25 I also have a book manuscript that is in</p>	<p>1 date focus on the issue of socioeconomic disparities by</p> <p>2 race?</p> <p>3 A. Focusing in particular on disparities where</p> <p>4 that's the main -- the main focus is to try to explain</p> <p>5 disparities or use disparities to explain something else,</p> <p>6 I would say there's no paper that meets that description</p> <p>7 that is currently published and peer-reviewed. I would</p> <p>8 say that is an important topic under the surface in</p> <p>9 several of these papers, including one called Geography</p> <p>10 and Gridlock in the United States, in Nathaniel Persily,</p> <p>11 Editor, Solutions to Political Polarization in America.</p> <p>12 There are a few other papers in which these topics are</p> <p>13 important, but they are not the focus of those papers.</p> <p>14 Q. Do you consider yourself an expert on local</p> <p>15 politics in the St. Louis metro area?</p> <p>16 A. I would, in the past, have answered no to that</p> <p>17 question. At this point I would answer yes to that</p> <p>18 question. I have become deeply immersed in that question.</p> <p>19 Q. And when have you -- can you explain what</p> <p>20 accounts for that change?</p> <p>21 A. Because the St. Louis area, which is my home,</p> <p>22 has become the focus of a great deal of attention, and in</p> <p>23 my work on cities I already described a course that I've</p> <p>24 developed in which one of the things students do is pick a</p> <p>25 city and ask -- answer a number of questions about</p>
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<p>1 progress that has quite a bit of analysis of patterns of</p> <p>2 residential segregation by race and by partisanship, and</p> <p>3 this is a book project that I've been working on for some</p> <p>4 time, and my hope is to complete that book manuscript in</p> <p>5 the upcoming months.</p> <p>6 Q. But as of right now, you don't have any</p> <p>7 peer-reviewed publications that address patterns of racial</p> <p>8 segregation specifically, correct, Dr. Rodden?</p> <p>9 A. As I mentioned, I believe -- well, the focus</p> <p>10 of the paper I mentioned in Annual Review of Political</p> <p>11 Science is not -- is not 100 percent on racial</p> <p>12 segregation, but there is no paper that -- with that in</p> <p>13 the title where that is in the abstract. It's there under</p> <p>14 the surface in several of my papers in much of my ongoing</p> <p>15 work, but there is no -- there is no recent peer-reviewed</p> <p>16 paper that has that as its main focus.</p> <p>17 Q. Okay. Do you consider yourself an expert on</p> <p>18 socioeconomic disparities by race?</p> <p>19 A. It is an area in which I feel I've been</p> <p>20 gaining expertise. As I described, this is a -- my</p> <p>21 research is moving in this direction and it's something</p> <p>22 I've been deeply immersed in trying to understand</p> <p>23 recently, and I would say that I've reached the point</p> <p>24 where I would call myself an expert in this.</p> <p>25 Q. Do any of your peer-reviewed publications to</p>	<p>1 segregation, patterns of disparities.</p> <p>2 I have designed labs for my students where</p> <p>3 they have to download data from the census and from the</p> <p>4 ACS, put those into a map and try to explore patterns of</p> <p>5 segregation and income disparity, socioeconomic</p> <p>6 disparities. That's one of the things my students do in</p> <p>7 those labs. One of the cities we've been focusing on for</p> <p>8 some time, because it's my home and because I know a lot</p> <p>9 about it, has been St. Louis. So it has been a number of</p> <p>10 years we've been doing labs with the students and I've</p> <p>11 been teaching using material drawn from St. Louis, and I</p> <p>12 have not gotten to the point of publishing it yet.</p> <p>13 It has become the focus of national attention</p> <p>14 recently, and so I kind of doubled my efforts to try to</p> <p>15 understand the place. And I began reviewing some other</p> <p>16 literature, some other things that others have been</p> <p>17 writing about St. Louis, and I was -- I was interested to</p> <p>18 notice that there were a number of mischaracterizations of</p> <p>19 North County in particular which gave me even more reason</p> <p>20 to want to explore, and this has become something that</p> <p>21 I've done really -- prior to becoming involved in this</p> <p>22 lawsuit, I put a lot of effort into mapping and trying to</p> <p>23 understand socioeconomic disparities and information about</p> <p>24 racial groups in space and particular economic</p> <p>25 information. I'm very interested in class and economic</p>

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<p style="text-align: right;">Page 17</p> <p>1 distribution -- distribution of economic information, 2 income in particular, in the St. Louis area. So through 3 that -- through those efforts, I believe I've developed 4 some expertise on this.</p> <p>5 Q. And that's all within the last year?</p> <p>6 A. Well, as I described, the -- I had already 7 been working on this question for many years and more in 8 my teaching capacity than in my research capacity, 9 although it was just an interest of mine. But I would say 10 it's become a research focus in the last year.</p> <p>11 Q. And to be clear, you have not authored any 12 published peer-reviewed research on local politics in the 13 St. Louis metro area, correct?</p> <p>14 A. I do not typically publish case studies of 15 particular cities. That's not the style of research I do 16 in peer-reviewed journals. That is something that I would 17 typically do through a different kind of outlet, and so I 18 did publish an article in the Washington Post that 19 summarized some research that I had been doing. The 20 Washington Post is not peer-reviewed, although the blog in 21 which this appeared is actually edited by some prominent 22 political scientists who did review the work and give me 23 some feedback that then helped me craft the article that I 24 published.</p> <p>25 Q. But you don't have anything in a peer-reviewed</p>	<p style="text-align: right;">Page 19</p> <p>1 Act today?</p> <p>2 A. To begin with, the -- the claim I made in the 3 Florida case needs to be taken into context, which is that 4 this was a case in which I was testifying for the 5 plaintiffs in a gerrymandering case, and a big part of the 6 defense was that certain districts that were 7 overwhelmingly democratic had been drawn as part of a 8 requirement of Section 5 of the Voting Rights Act, and 9 there were also some claims that were very unclear and 10 quite muddy about Section 2. So I was asked by the -- by 11 the -- by the attorneys for the defense whether certain 12 districts were required to be -- whether they had to draw 13 certain districts as part of the -- as part of the 14 requirements of the Voting Rights Act, and my response was 15 essentially that this is a legal opinion that I'm not 16 willing to offer, this is a legal opinion on which I do 17 not have expertise.</p> <p>18 There is a professional class of Voting Rights 19 Acts -- Voting Rights Act experts. There is a class of 20 expert witnesses who are professional Voting Rights Acts 21 -- Voting Rights Act expert witnesses. I'm not part of 22 that class of individuals and I do not feel qualified to 23 make statements about conditions under which -- 24 particularly with respect to Section 5 at that time, I did 25 not feel qualified to make legal conclusions, legal</p>
<p style="text-align: right;">Page 18</p> <p>1 political science journal that addresses the issue of 2 local politics in the St. Louis metro area --</p> <p>3 A. No.</p> <p>4 Q. -- correct?</p> <p>5 A. That's correct.</p> <p>6 Q. Okay. Dr. Rodden, are you an expert on the 7 Voting Rights Act?</p> <p>8 A. Yes.</p> <p>9 Q. Now, you have testified in redistricting 10 litigation in the state of Florida, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And you testified in open court, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And when you gave that testimony, you were 15 under oath, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Do you recall testifying in that case that you 18 were not an expert on the Voting Rights Act?</p> <p>19 A. I do.</p> <p>20 Q. Okay. Now your testimony is that you are an 21 expert on the Voting Rights Act?</p> <p>22 A. That is correct.</p> <p>23 Q. Okay. What accounts for the change between 24 your testimony in the Florida redistricting case and your 25 assessment of yourself as an expert on the Voting Rights</p>	<p style="text-align: right;">Page 20</p> <p>1 judgments, that I thought should be left to the Court 2 about whether those districts needed to be drawn. So it 3 was an effort to make clear to the Court that I was not an 4 expert on case law related to the VRA, and I am still not 5 an individual who -- I don't have a J.D., I've not been to 6 law school, I do not have expertise on case law.</p> <p>7 I've read some cases and I try to understand 8 the plain language as a political scientist, but I do not 9 have expertise on the Voting Rights Act. I do not teach 10 in the law school. I do not teach classes in the law 11 school on case law, and that's what I was trying to 12 communicate with that claim.</p> <p>13 It is also the case that since that Florida 14 case, I learned a lot about the Voting Rights Act while we 15 were -- my expertise at the time, the focus of that case 16 was on gerrymandering. As I've studied gerrymandering and 17 I've tried to understand how to identify it, I've learned 18 that that can't be done very effectively without really 19 immersing yourself in the Voting Rights Act and trying to 20 understand it. So this is something that I've been doing, 21 I had started before that Florida case, and it's something 22 I've been working on pretty intensively since that.</p> <p>23 Q. And just for the record, what year, if you 24 remember, did you testify in that Florida case?</p> <p>25 A. I don't recall now, but it was -- it was --</p>

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<p style="text-align: right;">Page 21</p> <p>1 I'm sorry. I don't recall.</p> <p>2 Q. That's okay. 2012, 2013?</p> <p>3 A. It was perhaps -- I'm sorry. I just -- I'm</p> <p>4 not going to guess.</p> <p>5 Q. That's fine.</p> <p>6 A. Because I might get it wrong by a year, so --</p> <p>7 Q. Sure.</p> <p>8 A. I'm sure you have the information and you can</p> <p>9 enter it into the record. I don't remember.</p> <p>10 Q. Okay. So at the time of your testimony in the</p> <p>11 Florida case, you did not view yourself as someone who</p> <p>12 could assess whether or not a district or an electoral</p> <p>13 arrangement complies with the requirements of the Voting</p> <p>14 Rights Act, correct, Dr. Rodden?</p> <p>15 A. As a social scientist, I can -- I can do the</p> <p>16 data analysis that is required for that assessment. I am</p> <p>17 not in a position to offer legal judgments about which</p> <p>18 particular districts need to be drawn, in particular with</p> <p>19 respect to Section 5. I don't have that legal expertise.</p> <p>20 As a social scientist, I do have the expertise to do the</p> <p>21 requisite data analysis. The type of analysis that needs</p> <p>22 to be done is rather straightforward and rather well</p> <p>23 established. I do have the expertise to do that analysis.</p> <p>24 Q. You referred to a group of people as a class</p> <p>25 of experts who were professional Voting Rights experts --</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. Okay.</p> <p>2 A. I do believe I have that expertise.</p> <p>3 Q. So you said, I think earlier, that you don't</p> <p>4 believe that you have the legal expertise to state whether</p> <p>5 or not a district complies with the Voting Rights Act; is</p> <p>6 that correct, Dr. Rodden?</p> <p>7 A. Would you rephrase the question? I believe</p> <p>8 the question has been asked in slightly different ways</p> <p>9 that I may have missed, so perhaps you could rephrase the</p> <p>10 question as you would like me to answer it.</p> <p>11 Q. So I believe you testified earlier that you do</p> <p>12 not believe yourself to be qualified to render a legal</p> <p>13 opinion as to whether or not a districting arrangement</p> <p>14 complies with the requirements of the Voting Rights Act?</p> <p>15 MS. ORMSBY: I'm going to object. That</p> <p>16 misrepresents the testimony that he provided.</p> <p>17 Q. Does that misrepresent your testimony, Dr.</p> <p>18 Rodden?</p> <p>19 A. I believe it does. I will -- I will try to be</p> <p>20 as clear as possible, and we can keep at this for a while</p> <p>21 if we need to. I'll just try to make myself clear. I am</p> <p>22 able to do quantitative analysis that will reveal to the</p> <p>23 Court the information it needs to lead to -- to make a</p> <p>24 decision about whether a districting plan is in compliance</p> <p>25 with the VRA. My understanding as an expert witness is</p>
<p style="text-align: right;">Page 22</p> <p>1 Voting Rights Act experts?</p> <p>2 A. Yes. Within law schools in the United States</p> <p>3 there are people who teach classes on the VRA. I am</p> <p>4 tempted to teach such a class in the future. It is of</p> <p>5 great interest to me, but it is not something that I have</p> <p>6 yet done.</p> <p>7 Q. Now, do you consider yourself among that class</p> <p>8 of people who could describe themselves as professional</p> <p>9 Voting Rights Act experts?</p> <p>10 A. I am joining their ranks over time. I believe</p> <p>11 I have -- I'm probably -- I believe I'm in that -- I'm in</p> <p>12 that class perhaps of people who has the social science</p> <p>13 expertise to do expert witness work on these cases. But</p> <p>14 as I said before, I still don't -- I'm not a law professor</p> <p>15 and I do not feel comfortable and will not today be making</p> <p>16 legal conclusions about -- about how the Court should</p> <p>17 consider some of the unsettled areas of this law, and</p> <p>18 there are some areas that, in my understanding, are still</p> <p>19 unsettled.</p> <p>20 Q. So as of today, you do not consider yourself</p> <p>21 qualified to render an expert opinion as to whether or not</p> <p>22 a particular districting arrangement complies with the</p> <p>23 requirements of the Voting Rights Act; is that correct,</p> <p>24 Dr. Rodden?</p> <p>25 A. That's incorrect.</p>	<p style="text-align: right;">Page 24</p> <p>1 that that is the Court's job.</p> <p>2 I have a more humble understanding of my job</p> <p>3 as an expert witness, which is to provide the Court with</p> <p>4 information. Now, sometimes I have to do the best I can</p> <p>5 to read the law and understand it in order to know how to</p> <p>6 process that information and write it down, but in the end</p> <p>7 I believe it's the Court's job to use that information and</p> <p>8 make the decision. It is not my job.</p> <p>9 Q. So in this case you are not offering an</p> <p>10 opinion as to the ultimate legal question of whether or</p> <p>11 not the districting arrangement at issue in this case</p> <p>12 complies with the Voting Rights Act; is that correct, Dr.</p> <p>13 Rodden?</p> <p>14 A. State the question again, please.</p> <p>15 Q. If you could read it back to him.</p> <p>16 (Whereupon, the requested material was read by</p> <p>17 the reporter as follows:</p> <p>18 "QUESTION: So in this case you are not</p> <p>19 offering an opinion as to the ultimate legal question of</p> <p>20 whether or not the districting arrangement at issue in</p> <p>21 this case complies with the Voting Rights Act; is that</p> <p>22 correct, Dr. Rodden?</p> <p>23 A. I am offering an opinion, if you would like to</p> <p>24 call it a legal opinion, that's fine, but it's not -- it's</p> <p>25 for the Court to decide what is -- what is -- what is</p>

6 (Pages 21 to 24)

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<p style="text-align: right;">Page 25</p> <p>1 ultimately admissible.</p> <p>2 Q. Do you consider yourself an expert on racial</p> <p>3 polarization, Dr. Rodden?</p> <p>4 A. Will you define racial polarization for me?</p> <p>5 I'm not sure what you mean. Racial polarization of what?</p> <p>6 Q. Of voting patterns. Are you an expert on</p> <p>7 racial polarization in voting patterns, Dr. Rodden?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Who, in your mind, are some of the</p> <p>10 nation's leading scholars on the study of racially</p> <p>11 polarized voting patterns?</p> <p>12 A. I need more time to add more names to the</p> <p>13 list. I can come back later. Some good work has been</p> <p>14 done by Stephen Ansolabehere. I'm sure there are people</p> <p>15 I'm missing and I'll feel bad about missing, but I might</p> <p>16 have to come back to that and give you more names after</p> <p>17 I've had more time to think.</p> <p>18 Q. Have you heard of Bernard Rothman?</p> <p>19 A. Yes.</p> <p>20 Q. Would you describe him as one of the leading</p> <p>21 scholars on -- within political science on the study of</p> <p>22 racially polarized voting?</p> <p>23 A. Yes.</p> <p>24 Q. Have you heard of Dick Engstrom?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 27</p> <p>1 described earlier, I've put a lot of effort into putting</p> <p>2 census data together with voting data at the lowest level</p> <p>3 possible and conducting analysis of those. The required</p> <p>4 data analysis is precinct-level analysis of the</p> <p>5 relationship between the race of a place and the voting</p> <p>6 behavior of a place. This is something that I -- in which</p> <p>7 I consider myself to be an expert and is something which I</p> <p>8 have done a great deal of teaching and on which I've been</p> <p>9 focusing recent research.</p> <p>10 Q. Okay. Have any of your peer-reviewed</p> <p>11 publications ever attempted to assess whether or not a</p> <p>12 district or electoral arrangement provides minority voters</p> <p>13 with an opportunity to elect their preferred candidates?</p> <p>14 A. That is a question that is of interest to the</p> <p>15 courts. It is -- and it's something on which I've been</p> <p>16 working with respect to this lawsuit. It is not something</p> <p>17 on which I have published a peer-reviewed paper.</p> <p>18 Q. Now, you have published peer-reviewed research</p> <p>19 that draws districts before, right, Dr. Rodden?</p> <p>20 A. Yes.</p> <p>21 Q. I want to show you I think a paper of yours.</p> <p>22 We've marked it as Rodden Exhibit 2. The title of this</p> <p>23 paper that you co-authored with Jowei Chen is</p> <p>24 "Unintentional Gerrymandering: Political Geography and</p> <p>25 Electoral Bias in Legislatures." Is that correct?</p>
<p style="text-align: right;">Page 26</p> <p>1 Q. Would you describe him as one of the nation's</p> <p>2 leading scholars in political science on the study of</p> <p>3 racially polarized voting?</p> <p>4 A. I believe -- I believe I would.</p> <p>5 Q. Now, have you published any peer-reviewed</p> <p>6 publications that focus on the question of racially</p> <p>7 polarized voting patterns?</p> <p>8 A. No.</p> <p>9 Q. Prior to your work in this case, had you ever</p> <p>10 conducted an analysis of racially polarized voting</p> <p>11 patterns?</p> <p>12 A. Not that is published in a peer-reviewed</p> <p>13 publication, but I certainly have done a lot of work to</p> <p>14 examine the relationship between the racial composition of</p> <p>15 a place and the voting behavior of that place, which is</p> <p>16 ultimately what lies behind this analysis.</p> <p>17 Q. Okay. Would you consider whether or not a</p> <p>18 districting arrangement provides minority voters with an</p> <p>19 opportunity to elect their preferred candidates within</p> <p>20 your area of expertise?</p> <p>21 A. Yes.</p> <p>22 Q. And what is your basis for saying that?</p> <p>23 A. It is a question that requires the collection</p> <p>24 of low-level data, at the level of -- at a level of</p> <p>25 analysis that can be combined with voting behavior. As I</p>	<p style="text-align: right;">Page 28</p> <p>1 A. Yes.</p> <p>2 Q. And you published this article in 2013?</p> <p>3 A. Yes.</p> <p>4 Q. What would you describe as the purpose of this</p> <p>5 article? You know, let me withdraw that question because</p> <p>6 I think that was a little broad.</p> <p>7 A. Okay.</p> <p>8 Q. Am I correct, Dr. Rodden, that in this</p> <p>9 article, among other things, you ran random redistricting</p> <p>10 simulations in order to determine whether or not partisan</p> <p>11 bias in terms of the composition of congress is the</p> <p>12 product of intentional gerrymandering? Is that accurate?</p> <p>13 A. That is one of the interesting analyses I</p> <p>14 think that emerges from the paper. The reason for doing</p> <p>15 the research initially arose from something I described</p> <p>16 earlier was my interest in understanding how the geography</p> <p>17 of voters in space, so the distribution of voters across</p> <p>18 census blocks, across neighborhoods, how that pure</p> <p>19 geography affects representation when we draw electoral</p> <p>20 districts.</p> <p>21 I wanted to know what happens when we draw</p> <p>22 electoral districts and how might that inevitably help one</p> <p>23 party or another purely because of geography. We have a</p> <p>24 literature in American political science that argues in</p> <p>25 the presence of an asymmetry in the transformation of</p>

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<p style="text-align: right;">Page 29</p> <p>1 votes to seats, that gerrymandering is the cause, and we</p> <p>2 have a public discourse in newspapers that whenever people</p> <p>3 see that a party gets more seats than votes, they assume</p> <p>4 that this is the cause of gerrymandering. What my hunch--</p> <p>5 Q. I'm sorry. Do you mean is caused by</p> <p>6 gerrymandering? I think you said --</p> <p>7 A. I'm sorry. The effect of. Thank you.</p> <p>8 Q. Okay.</p> <p>9 A. That this was caused by gerrymandering. So --</p> <p>10 so in my analysis I wanted to -- and this is also related</p> <p>11 to the book manuscript that I described that I've been</p> <p>12 working on, the hope was to be able to capture what the --</p> <p>13 what the partisanship of some districts would be if they</p> <p>14 were not drawn by politicians in state legislatures. We</p> <p>15 wanted to just get a baseline understanding of what some</p> <p>16 districts would look like if they were compact and</p> <p>17 contiguous and so forth.</p> <p>18 Q. So is it fair to say that you wanted to test</p> <p>19 or assess in a quantitative way whether or not this</p> <p>20 hypothesis that intentional gerrymandering was the cause</p> <p>21 of partisan bias in the legislature?</p> <p>22 A. We wanted to see if we could learn something</p> <p>23 about how much of the observed bias can be explained by</p> <p>24 gerrymandering.</p> <p>25 Q. And --</p>	<p style="text-align: right;">Page 31</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Now, in simulating districts in this</p> <p>3 article, you tried to insure that the districts were</p> <p>4 roughly equal in terms of population size, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And in measuring the population size of the</p> <p>7 districts, you used decennial census data; is that</p> <p>8 correct?</p> <p>9 A. Because redistricting requires the use of</p> <p>10 decennial data, that is -- that's the law. It is also the</p> <p>11 case that decennial census data are available at the level</p> <p>12 of blocks. There are no other data available at the level</p> <p>13 of blocks, so those were the only data that were available</p> <p>14 to us to aggregate up to the level of precincts.</p> <p>15 Q. Could you turn to Page 248 in your article?</p> <p>16 And I'm looking at the first paragraph and the last</p> <p>17 sentence in that paragraph where you write, "Rather than</p> <p>18 examining the bias associated with existing districting</p> <p>19 plans, many of which were undoubtedly influenced by</p> <p>20 efforts at partisan and racial gerrymandering, we seek to</p> <p>21 estimate the electoral bias that would emerge under</p> <p>22 hypothetical districting plans that are not intentionally</p> <p>23 gerrymandered."</p> <p>24 Did I read that correctly?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 30</p> <p>1 A. As we continued in this process, we have</p> <p>2 learned that some of the -- that some -- some of the bias</p> <p>3 we see, in our view, is likely to have been caused by</p> <p>4 gerrymandering, but there's a considerable amount that</p> <p>5 would also still be there if we allowed an algorithm like</p> <p>6 ours to draw the districts.</p> <p>7 Q. Now, in your opinion as a political scientist,</p> <p>8 would it be sufficient to address this hypothesis of</p> <p>9 whether or not gerrymandering causes partisan bias with</p> <p>10 qualitative evidence, or do we need to test it</p> <p>11 quantitatively the way that you do here in order to</p> <p>12 satisfy standards of peer review?</p> <p>13 A. In order to satisfy standards of peer review,</p> <p>14 a quantitative analysis is -- it is more likely to satisfy</p> <p>15 standards of peer review.</p> <p>16 Q. I mean if someone just sort of cited the</p> <p>17 qualitative discourse that, oh, there's some intentional</p> <p>18 gerrymandering efforts, and look, there's partisan bias in</p> <p>19 the legislature, and then tried to publish a peer-reviewed</p> <p>20 study based on that, do you think that would get through</p> <p>21 peer review?</p> <p>22 A. Not likely.</p> <p>23 Q. You would want to supplement that kind of</p> <p>24 analysis with some sort of quantitative research like you</p> <p>25 do here, right?</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. What do you mean by the phrase racial</p> <p>2 gerrymandering in this sentence?</p> <p>3 A. An effort to -- effort to stack districts with</p> <p>4 members of a minority group that would affect -- affect</p> <p>5 outcomes. You know, there are efforts that individuals</p> <p>6 might be -- might be undertaking in the legislature with</p> <p>7 respect to really we're thinking mostly of partisanship.</p> <p>8 What we learned in the Florida case is that a lot of</p> <p>9 partisan gerrymandering is done under the cloak of the</p> <p>10 Voting Rights Act, so we were --</p> <p>11 Q. I'm sorry, Dr. Rodden. I didn't -- my</p> <p>12 question wasn't about the Florida case. I'm just asking</p> <p>13 about what you meant here in this article when you used</p> <p>14 the expression racial gerrymandering.</p> <p>15 A. My answer doesn't change. I was only using</p> <p>16 the Florida case as an example, highlighting something</p> <p>17 that I know -- I believe takes place, which is that in</p> <p>18 some states it is in the interest of the Republican Party</p> <p>19 to draw districts that are republican partisan</p> <p>20 gerrymanders, but it is in their interest to present them</p> <p>21 as having been required by the Voting Rights Act.</p> <p>22 That may not be what other people mean by</p> <p>23 racial gerrymandering, and if I misused the phrase, then</p> <p>24 I'm -- then I'll have to learn how others use it, but</p> <p>25 that's what I had in mind.</p>

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<p style="text-align: right;">Page 33</p> <p>1 Q. I'm just curious to know about how you meant 2 it when you were using it. I believe the first thing you 3 said, when you answered my question, was efforts to stack 4 districts with a certain percentage of minorities to 5 affect election outcomes? 6 A. To -- I was thinking about partisan outcomes. 7 Q. Uh-huh. 8 A. Yes. I was thinking about -- I mean I 9 understand this is a complicated area of the law in which 10 -- in which one might -- it's difficult to disentangle -- 11 Q. Now -- 12 A. -- efforts at racial and partisan 13 gerrymandering. I really had in mind here the notion that 14 one, with partisan goals, might -- might use -- might use 15 racial groups as a -- you know, as a kind of shorthand. 16 When one is moving around census blocks and trying to 17 achieve a certain partisan gerrymandering outcome, race is 18 most certainly one of the variables they use. 19 Q. Okay. 20 A. That's what I had in mind. 21 Q. So when you're referring to racial 22 gerrymandering here, you're referring to efforts that have 23 partisan intentions. You're not referring to any 24 consideration of race in redistricting that seeks to 25 affect the outcome of an election; is that right, Dr.</p>	<p style="text-align: right;">Page 35</p> <p>1 and the first sentence. "Recent research by political 2 scientists has shown that small, but well-organized 3 interest groups such as unionized teachers and municipal 4 workers benefit handsomely from low turnout off-cycle 5 elections." 6 Did I read what you wrote correctly? 7 A. Yes. 8 Q. And what do you mean by off-cycle elections? 9 A. Non-November elections. 10 Q. Okay. And the Ferguson-Florissant School 11 District board elections are off-cycle elections, correct? 12 A. Correct. 13 Q. In your opinion as a political scientist, 14 unionized teachers benefit from off-cycle elections, 15 correct? 16 A. That is a finding of a student of mine who has 17 written a dissertation on the topic. 18 Q. And do you have any reason to dispute that 19 finding? 20 A. No. 21 Q. So in your opinion as a political scientist, 22 unionized teachers benefit from off-cycle elections? 23 A. That is my opinion of the state of the 24 literature. I have not done research on that topic. 25 Q. And specifically in your opinion, do the</p>
<p style="text-align: right;">Page 34</p> <p>1 Rodden? 2 A. That is correct. I would not refer 3 intentionally to an -- an honest effort to abide by the 4 Voting Rights Act, I would not refer to that as 5 gerrymandering, and if I appear to have done so, it was 6 inadvertent. 7 Q. Oh, no. I wasn't making any statements about 8 what you appear to be doing. I just wanted to understand 9 what you were saying. 10 A. I understand. 11 Q. Let's turn to something else. This has been 12 pre-marked as Rodden Exhibit 3. Do you recognize this? 13 A. I do. 14 Q. I believe earlier you testified that you had 15 written something for the Washington Post about the St. 16 Louis metro area. Is this what you were referring to? 17 A. Yes. 18 Q. Okay. I want to turn to Page 6. I'm sorry, 19 and to be clear, this is for the Monkey Cage blog on the 20 Washington Post, correct? 21 A. Correct. 22 Q. This didn't appear in print, correct? 23 A. Oh, I don't know. I don't have a subscription 24 to the Washington Post, so I don't know. 25 Q. So I'm looking at the last paragraph on Page 6</p>	<p style="text-align: right;">Page 36</p> <p>1 teachers unions in the Ferguson-Florissant school district 2 benefit from off-cycle elections in the 3 Ferguson-Florissant school district? 4 A. I have not done analysis on union involvement 5 in local elections in the Ferguson-Florissant school 6 district. 7 Q. So you don't have an opinion one way or 8 another as to whether or not the teachers union in the 9 Ferguson-Florissant school district benefits from the fact 10 that elections are off-cycle? 11 A. I don't. 12 Q. Do you have any reason to think that the 13 Ferguson-Florissant school district teachers union is 14 different from other teachers unions, which I believe you 15 testified, as a general matter you have seen the research, 16 benefit from off-cycle elections? 17 A. I don't have the counterfactual. I have not 18 observed Ferguson-Florissant School Districts held in -- 19 Ferguson-Florissant school board elections held in 20 November, so I cannot make the comparison. I can only 21 tell you that a dissertation has been written in which 22 places that had off-cycle elections had higher teacher 23 salaries and more generous pensions than places that had 24 on-cycle elections. Those were matched pairs. It was a 25 well-done research design. I believed in the results.</p>

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<p style="text-align: right;">Page 37</p> <p>1 Whether that finding is externally valid</p> <p>2 sufficiently so that it is also true of every school</p> <p>3 district in the United States, I do not know. And so</p> <p>4 whether I can say specifically that that research applies</p> <p>5 in this context, whether there is some unknown factor in</p> <p>6 that research that makes it only work in certain districts</p> <p>7 and not others, that I do not know.</p> <p>8 Q. Okay. The next sentence in your blog post</p> <p>9 here reads, "Historically, off-cycle elections have been a</p> <p>10 favored strategy of established ethnic groups in American</p> <p>11 cities who wish to keep immigrants and minorities out of</p> <p>12 power. In North St. Louis County the most organized</p> <p>13 groups are white homeowners who have been in the same</p> <p>14 neighborhood since the 1970s, along with police officers</p> <p>15 and municipal employees who benefit from the status quo</p> <p>16 and they have been able to dominate local elections."</p> <p>17 Did I read what you wrote correctly?</p> <p>18 A. Yes.</p> <p>19 Q. Now, in your opinion as a political scientist,</p> <p>20 off-cycle elections have historically been used to keep</p> <p>21 minorities out of power?</p> <p>22 A. This is also something that arises from the</p> <p>23 same research which also had a historical component, and</p> <p>24 there was some analysis, not of St. Louis in particular,</p> <p>25 but some old eastern cities that suggested this was the</p>	<p style="text-align: right;">Page 39</p> <p>1 problem is even worse in some of the communities</p> <p>2 surrounding Ferguson."</p> <p>3 Did I read that correctly?</p> <p>4 A. Yes.</p> <p>5 Q. So your understanding is that the racial</p> <p>6 composition of the Ferguson area has changed since the</p> <p>7 1980s; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. And in particular, it's become more</p> <p>10 African-American; is that correct?</p> <p>11 A. That is correct.</p> <p>12 Q. And in your opinion as a political scientist,</p> <p>13 that change in the racial composition of Ferguson since</p> <p>14 the 1980s in terms of becoming more African-American, that</p> <p>15 has not been reflected in the diversity of municipal</p> <p>16 government in the Ferguson area, correct?</p> <p>17 A. That is correct.</p> <p>18 Q. And you describe in your blog post this</p> <p>19 mismatch between the composition of the population and the</p> <p>20 municipal government in the Ferguson area as a "problem",</p> <p>21 correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Okay.</p> <p>24 A. It is a problem that I care deeply about.</p> <p>25 Q. Okay. The last sentence in the third</p>
<p style="text-align: right;">Page 38</p> <p>1 case.</p> <p>2 Q. And when you say this was the case, you mean</p> <p>3 that off-cycle elections have historically been used to</p> <p>4 keep minorities out of power, correct?</p> <p>5 A. That is what emerges from that research, yes.</p> <p>6 Q. And you don't have any reason to dispute that</p> <p>7 research, correct?</p> <p>8 A. That's correct.</p> <p>9 Q. And specifically you opine here that white</p> <p>10 homeowners and municipal employees have been able to</p> <p>11 dominate local elections in North County, correct?</p> <p>12 A. That was my impression, yes.</p> <p>13 Q. Okay. And Ferguson-Florissant school district</p> <p>14 is in North County, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Can we look up to the second paragraph on this</p> <p>17 page where you write -- same page.</p> <p>18 A. Oh, sorry.</p> <p>19 Q. Stay on Page 6. In the second paragraph here</p> <p>20 you write, "The immediate problem in Ferguson is neither</p> <p>21 residential segregation nor its demise. Rather, as many</p> <p>22 have pointed out, it is that the racial integration of the</p> <p>23 community has not been reflected in the municipal</p> <p>24 government and police force whose racial composition still</p> <p>25 reflects the status quo of the 1980s. In fact, the</p>	<p style="text-align: right;">Page 40</p> <p>1 paragraph notes, "Six out of the seven members of the</p> <p>2 board of overwhelmingly black Ferguson-Florissant school</p> <p>3 district are white."</p> <p>4 Did I read what you wrote accurately?</p> <p>5 A. Yes. That was the case at the time.</p> <p>6 Q. And the student body of the</p> <p>7 Ferguson-Florissant school district is, in your words,</p> <p>8 overwhelmingly black, correct?</p> <p>9 A. The registered student body, I believe, is</p> <p>10 comfortable majority African-American, and the population</p> <p>11 of the district is majority African-American.</p> <p>12 Q. Now, one example in which the local government</p> <p>13 does not reflect the diversity of the community, that</p> <p>14 problem that you were referring to earlier, one</p> <p>15 manifestation of that or example of that is that at the</p> <p>16 time that you wrote this, six out of seven members of the</p> <p>17 Ferguson-Florissant school board were white, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And today it's five out of seven members of</p> <p>20 the Ferguson-Florissant school board that are white,</p> <p>21 correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Okay. Can we turn to Page 1 in your blog</p> <p>24 post. The first paragraph here you write, "Over the last</p> <p>25 few days punditry about Ferguson, Missouri has converged</p>

10 (Pages 37 to 40)

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<p>1 on a common, well-rehearsed narrative about segregation in</p> <p>2 St. Louis that goes back to the 19th century: Whites will</p> <p>3 do whatever it takes to prevent blacks from moving into</p> <p>4 their neighborhoods, including redlining, restrictive</p> <p>5 covenants, large lot zoning, intimidation and violence.</p> <p>6 When these ultimately fail, whites build a new" -- sorry</p> <p>7 -- "whites build new interstates and move in mass to the</p> <p>8 next ring of undeveloped farm land, leaving behind</p> <p>9 destitute neighborhoods with no investment or</p> <p>10 opportunity."</p> <p>11 Did I read what you wrote correctly?</p> <p>12 A. Yes.</p> <p>13 Q. Now, you were, in this blog post, attempting</p> <p>14 to dispute that narrative, correct?</p> <p>15 A. Indeed.</p> <p>16 Q. Now, is it your opinion that discriminatory</p> <p>17 redlining has not been an issue in the St. Louis area?</p> <p>18 A. That is not my opinion.</p> <p>19 Q. Is it your view that the effects of past</p> <p>20 discriminatory redlining no longer play a role in</p> <p>21 socioeconomic life in the St. Louis area?</p> <p>22 A. No, that is not my opinion.</p> <p>23 Q. Is it your opinion that restrictive covenants</p> <p>24 against black home ownership have not been an issue in the</p> <p>25 St. Louis area?</p>	<p>1 A. Yes.</p> <p>2 Q. And do you agree that that past history of</p> <p>3 intimidation and violence in the St. Louis area continues</p> <p>4 to play a role in socioeconomic life in St. Louis?</p> <p>5 A. Yes.</p> <p>6 Q. What do you mean in the first sentence here</p> <p>7 when you say that the narrative about segregation in St.</p> <p>8 Louis is well rehearsed?</p> <p>9 A. There have been a number of articles in the</p> <p>10 popular press, a large number of articles in the popular</p> <p>11 press, laying out this narrative. I meant it is well</p> <p>12 rehearsed in that aspects of it are repeated over and over</p> <p>13 again and there are a number of authors who kind of cite</p> <p>14 one another and have gotten into a -- gotten into kind of</p> <p>15 a groove of saying these things and then drawing very</p> <p>16 broad conclusions about not only North St. Louis County,</p> <p>17 but about American suburbs in general.</p> <p>18 And one of the things I'm trying to</p> <p>19 understand, and the direction in which my research has</p> <p>20 gone, is trying to understand the process of</p> <p>21 suburbanization, and what I've been learning is it's much</p> <p>22 more complex than what this narrative suggests. And the</p> <p>23 narrative is one that people have stopped questioning, and</p> <p>24 I believe some aspects of that narrative need to be</p> <p>25 questioned, because in many American cities the</p>
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<p>1 A. No.</p> <p>2 Q. Okay. So you agree that restrictive covenants</p> <p>3 against black home ownership have been an issue in the St.</p> <p>4 Louis area?</p> <p>5 A. Yes.</p> <p>6 Q. And you agree that the effects of past</p> <p>7 restrictive covenants prohibiting black ownership continue</p> <p>8 to play a role in socioeconomic life in the St. Louis</p> <p>9 area?</p> <p>10 A. Yes.</p> <p>11 Q. You also agree that large lot zoning has been</p> <p>12 an issue in the St. Louis area, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And you agree that past large lot zoning</p> <p>15 continues to play a role in socioeconomic life in the St.</p> <p>16 Louis area, correct?</p> <p>17 A. Sorry. Say that one again. I'm sorry. I was</p> <p>18 still thinking about the previous one.</p> <p>19 Q. That's okay. You agree that large lot zoning</p> <p>20 practices continue to have an effect on socioeconomic life</p> <p>21 in the St. Louis area, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And you would agree that intimidation and</p> <p>24 violence along racial lines has been an issue in the St.</p> <p>25 Louis area?</p>	<p>1 African-American middle class has suburbanized and much of</p> <p>2 that suburbanization has been a middle class movement, and</p> <p>3 the characterization here is that the desegregation of</p> <p>4 suburbia is primarily a desegregation that involves the</p> <p>5 movement of impoverished people from city centers to the</p> <p>6 suburbs. And it is the case that poverty has increased in</p> <p>7 inner ring and middle ring suburbs, but what is also the</p> <p>8 case, and which is much more overwhelming in the numbers,</p> <p>9 is that African-American middle class people have moved to</p> <p>10 suburbs and have become homeowners; not nearly in numbers</p> <p>11 that one might prefer, but within every U.S. metro area</p> <p>12 there has been a substantial suburbanization of the</p> <p>13 African-American middle class.</p> <p>14 There has been a substantial desegregation of</p> <p>15 the population. United States is far less residentially</p> <p>16 segregated than it was in the 2000 census, and that was a</p> <p>17 far less segregated population than in the 1990 census.</p> <p>18 So there is a move towards integration that we must try to</p> <p>19 understand, and I believed it was important that people</p> <p>20 understand the reality in the North County area around</p> <p>21 Ferguson and Florissant, because if the rhetoric and the</p> <p>22 narrative focuses exclusively on poverty and crime, when</p> <p>23 in fact places like Florissant and even most of Ferguson</p> <p>24 are middle class and do not have an overwhelming increase</p> <p>25 in crime, that the very phenomenon that well-meaning</p>

11 (Pages 41 to 44)

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<p style="text-align: right;">Page 45</p> <p>1 authors would like to put an end to, simply ends up being</p> <p>2 sped up; that when suburban whites receive a message that</p> <p>3 suburbanization of the African-American population is</p> <p>4 equated with an increase in poverty and crime, it has</p> <p>5 potential to speed up the process of white flight, and</p> <p>6 that is the -- really the theme of this article, is that</p> <p>7 understanding the reality is important. Understanding not</p> <p>8 a simple narrative about suburbanization, but</p> <p>9 understanding the facts about suburbanization, in</p> <p>10 particular in Ferguson-Florissant, is important. That's</p> <p>11 what really got me started on trying to understand those</p> <p>12 facts, and those facts have made their way into my expert</p> <p>13 reports in this case.</p> <p>14 Q. You mentioned being focussed on the reality.</p> <p>15 You would agree, Dr. Rodden, that the reality is that</p> <p>16 St. Louis remains among the most segregated metropolitan</p> <p>17 regions in the United States, correct?</p> <p>18 A. That is correct, and as I point out in the</p> <p>19 article, there are a few bright spots. There are a few</p> <p>20 places that are desegregated, and one of those is the</p> <p>21 Ferguson-Florissant school district. And it's not</p> <p>22 desegregated by accident. It was desegregated by court</p> <p>23 order and that court order was successful.</p> <p>24 Q. So just so I understand, it wasn't</p> <p>25 desegregated voluntarily, it was desegregated by force of</p>	<p style="text-align: right;">Page 47</p> <p>1 hour. If you want to take a break, we can now.</p> <p>2 MS. ORMSBY: I'm good. Do you want to take a</p> <p>3 break?</p> <p>4 THE WITNESS: I'm happy to keep going. If</p> <p>5 it's a change in topics that is a good moment for a break,</p> <p>6 that would be fine, too.</p> <p>7 MR. HO: Why don't we just keep going for a</p> <p>8 few more minutes.</p> <p>9 THE WITNESS: Okay.</p> <p>10 Q. I'm going to show you what's been marked as</p> <p>11 Rodden Exhibit 4, Dr. Rodden. I believe this is the</p> <p>12 initial expert report that you offered in this case; is</p> <p>13 that correct?</p> <p>14 A. Yes.</p> <p>15 Q. And it's dated May 7th, 2015; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. And you signed this, to the best of your</p> <p>18 knowledge, under oath, under penalty of perjury; is that</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Could you turn to Page 12 in your</p> <p>22 report, Dr. Rodden? I'm looking at the header on Page 12</p> <p>23 that states, "An assessment of turnout by race in</p> <p>24 Ferguson-Florissant school board elections." Now, in this</p> <p>25 section of your report you're looking at comparative</p>
<p style="text-align: right;">Page 46</p> <p>1 federal law, correct?</p> <p>2 A. Several decades ago, yes.</p> <p>3 Q. Okay. Now, on Page 5 of your blog post, you</p> <p>4 have, I believe, a chart -- correct me if I misunderstand</p> <p>5 this. It's a chart that compares relative levels of</p> <p>6 segregation of various cities within the St. Louis metro</p> <p>7 area; is that right?</p> <p>8 A. Uh-huh. Yes.</p> <p>9 Q. Now, in this chart you are purporting to show</p> <p>10 that Ferguson is relatively less segregated than many --</p> <p>11 or some other cities in the St. Louis area, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Now, this chart does not include any</p> <p>14 comparison of Ferguson to areas outside of the St. Louis</p> <p>15 area in terms of its level of segregation, correct?</p> <p>16 A. Those areas -- you mean in Missouri or --</p> <p>17 Q. Just outside of the St. Louis metro area.</p> <p>18 A. No. This is a graph that is based on the St.</p> <p>19 Louis metro area.</p> <p>20 Q. Okay. And in this blog post do you cite any</p> <p>21 statistics comparing Ferguson to levels of segregation</p> <p>22 outside of the St. Louis metro area?</p> <p>23 A. No.</p> <p>24 MR. HO: Now may be a good time for a break.</p> <p>25 I mean I'm happy to keep going, but we've been about an</p>	<p style="text-align: right;">Page 48</p> <p>1 turnout rates by race within the Ferguson-Florissant</p> <p>2 school district, correct?</p> <p>3 A. Make sure I remember what is in this section.</p> <p>4 Q. Take your time.</p> <p>5 A. You characterized it as comparative turnout</p> <p>6 rates by race. That's a fine summary, yes.</p> <p>7 Q. Okay. And fair to say that in your opinion,</p> <p>8 black and white turnout rates in Ferguson-Florissant</p> <p>9 school district for school board elections are relatively</p> <p>10 even?</p> <p>11 A. Well, as I discovered, it varies from one</p> <p>12 election to another.</p> <p>13 Q. So that's not your opinion that turnout rates</p> <p>14 between blacks and whites are relatively even in</p> <p>15 Ferguson-Florissant school board elections?</p> <p>16 A. In the most recent handful -- yeah, I think it</p> <p>17 was -- my testimony is that the -- there's no significant</p> <p>18 difference between the rates in 2012, 13 and 14, and there</p> <p>19 is a sizable difference in the two years in which -- as I</p> <p>20 described in the report, the two years in which there were</p> <p>21 Florissant mayoral elections.</p> <p>22 Q. As a general matter, is it your opinion --</p> <p>23 sorry. Let me start that again. Is it your opinion that</p> <p>24 as a general matter, turnout between blacks and whites has</p> <p>25 achieved rough parity in Ferguson-Florissant school board</p>

12 (Pages 45 to 48)

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<p style="text-align: right;">Page 49</p> <p>1 elections?</p> <p>2 A. Recently.</p> <p>3 Q. Okay. Now, I believe, and correct me if I'm</p> <p>4 wrong, you have two different forms of analysis in this</p> <p>5 section of your report. First, you have a correlation</p> <p>6 analysis where you attempt to measure the -- if there's a</p> <p>7 correlation between turnout and the percent black voting</p> <p>8 age population of each precinct in the Ferguson-Florissant</p> <p>9 school district. Is that an accurate characterization of</p> <p>10 what's in Figure 5 on Page 13 of your report?</p> <p>11 A. Yes.</p> <p>12 Q. And second, I believe, on Page 15, Figure 6 in</p> <p>13 your report, you have a series of ecological inference</p> <p>14 estimates for black and white turnout rates in the</p> <p>15 Ferguson-Florissant school board elections since 2000; is</p> <p>16 that correct?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. Are there any other quantitative</p> <p>19 analyses in your report about turnout rates in</p> <p>20 Ferguson-Florissant school board elections other than the</p> <p>21 two that I just described?</p> <p>22 A. I need you to be a little bit more clear. If</p> <p>23 you are asking whether there is any analysis that involves</p> <p>24 turnout rate, then the answer is yes. The supplemental</p> <p>25 report in which Professor Chen and I attempted to</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. And that's because if that underlying data is</p> <p>2 not accurate, that could undermine your ultimate opinion,</p> <p>3 right?</p> <p>4 A. It would depend on the level of inaccuracy.</p> <p>5 Q. But it could, right? If the underlying data</p> <p>6 was inaccurate, that could undermine your ultimate</p> <p>7 opinion?</p> <p>8 A. Yes, if the underlying data had been assembled</p> <p>9 inappropriately, then yes, that would be -- it could</p> <p>10 undermine the analysis, sure.</p> <p>11 Q. And it's your opinion that the data that you</p> <p>12 used for these analyses in analyzing turnout rates is</p> <p>13 accurate, right, Dr. Rodden?</p> <p>14 A. Yes, to the best my knowledge and the best of</p> <p>15 my abilities to assemble it, yes.</p> <p>16 Q. It's also important that the data be recent,</p> <p>17 right?</p> <p>18 A. As recent as possible, yes.</p> <p>19 Q. And in your opinion as a political scientist,</p> <p>20 the data that you used for this turnout analysis was</p> <p>21 sufficiently recent for your purposes in this report,</p> <p>22 correct?</p> <p>23 A. It was the only data available at the level of</p> <p>24 blocks that I could then aggregate up to the level of</p> <p>25 precincts in order to conduct the analysis. So faced with</p>
<p style="text-align: right;">Page 50</p> <p>1 understand the effectiveness of the districts drawn by Dr.</p> <p>2 Cooper, turnout of African-Americans was included as part</p> <p>3 of that analysis.</p> <p>4 Q. Right.</p> <p>5 A. There is no other analysis that I'm thinking</p> <p>6 of right now in which turnout was the focus, the thing we</p> <p>7 were trying to explain.</p> <p>8 Q. Right. So my question is your opinion about</p> <p>9 relative rates of turnout between blacks and whites in the</p> <p>10 Ferguson-Florissant school board, it's based on these two</p> <p>11 analyses where you attempt to measure turnout in past</p> <p>12 Ferguson-Florissant school board elections, correct?</p> <p>13 A. Correct.</p> <p>14 Q. The ecological inference and the bivariate</p> <p>15 correlation, correct?</p> <p>16 A. That's correct, yes.</p> <p>17 Q. Okay. There's no other analysis on which that</p> <p>18 opinion about comparative turnout rates between blacks and</p> <p>19 whites in the Ferguson-Florissant school board is based,</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. Now, in performing your turnout</p> <p>23 analysis, it's very important that the data you utilize be</p> <p>24 accurate, correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 52</p> <p>1 the choice of not analyzing turnout or analyzing turnout</p> <p>2 using the most recent data, I chose the latter.</p> <p>3 Q. And so you would agree then that the data that</p> <p>4 you used for your turnout analysis was the best available</p> <p>5 data for that purpose, right?</p> <p>6 A. Yes.</p> <p>7 Q. Let's talk about your bivariate correlation</p> <p>8 analysis on Page 13, Figure 5. I've described that</p> <p>9 accurately at a bivariate correlation, haven't I, Dr.</p> <p>10 Rodden?</p> <p>11 A. I don't report a correlation coefficient. I</p> <p>12 plot all of the precincts, and then I fit, instead of</p> <p>13 fitting a straight line, it's -- when you look at the</p> <p>14 data, it seems like, just from visually one gets the</p> <p>15 impression there might be some nonlinearity. In that</p> <p>16 situation when one is drawing a visual display, it makes</p> <p>17 sense to use a kind of a nonlinear smoother to present the</p> <p>18 data.</p> <p>19 It's really more a visual aid, but there is --</p> <p>20 there is no bivariate correlation reported here. There is</p> <p>21 a lowest plot that is presented in red.</p> <p>22 Q. Okay. But am I accurate in saying that you're</p> <p>23 trying to determine whether or not there's a correlation</p> <p>24 between turnout rates, on the one hand, and the percentage</p> <p>25 voting age population of a precinct that is black, on the</p>

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<p style="text-align: right;">Page 53</p> <p>1 other hand?</p> <p>2 A. Correct.</p> <p>3 Q. And you calculate turnout as the number of</p> <p>4 ballots cast divided by registered voters; is that</p> <p>5 correct?</p> <p>6 A. If you got that from the text of the report,</p> <p>7 then it is correct.</p> <p>8 Q. All right. I think, if I remember</p> <p>9 correctly -- let's see. On Page 12, Paragraph 21 the</p> <p>10 second sentence, I believe you say that turnout is defined</p> <p>11 as the number of ballots cast in the April election</p> <p>12 divided by the number of registered voters; is that right?</p> <p>13 A. That's correct. It would be the election</p> <p>14 commissioners report a column for each precinct that lets</p> <p>15 us know the total number of ballots cast, and I -- and we</p> <p>16 also have the number of registered voters, so those are</p> <p>17 the data I used.</p> <p>18 Q. Registered voters is the denominator?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Now, in your analysis here you didn't</p> <p>21 go back before the 2011 election, right?</p> <p>22 A. Oh, I -- I made those graphs. I just</p> <p>23 included, in order to make something that was visually</p> <p>24 nice and not too overwhelming, I just put the most recent</p> <p>25 elections on the graph.</p>	<p style="text-align: right;">Page 55</p> <p>1 can -- whether these are comparable essentially, is --</p> <p>2 Q. Well, just if you're measuring turnout the</p> <p>3 same way, right? I understand how you measure turnout --</p> <p>4 you calculate turnout in your correlation analysis, it's</p> <p>5 ballots cast divided by registered voters. I'm trying to</p> <p>6 understand if in your ecological inference estimates here</p> <p>7 you're calculating turnout in the same way.</p> <p>8 A. I believe so. That is my recollection.</p> <p>9 Q. Okay. Now, for both of these turnout analyses</p> <p>10 you need to know the voting age population and the percent</p> <p>11 -- the total voting age population and the percent of the</p> <p>12 voting age population that is black for each precinct; is</p> <p>13 that correct?</p> <p>14 A. Yes, that's what I used, right.</p> <p>15 Q. And for purposes of calculating the voting age</p> <p>16 population and the percent black of the voting age</p> <p>17 population for each precinct in the Ferguson-Florissant</p> <p>18 school district, you used decennial census data; is that</p> <p>19 correct?</p> <p>20 A. Yes. As I described, that is the only data</p> <p>21 available at the block level. There are no mid-decade</p> <p>22 block counts to work with.</p> <p>23 Q. And you testified that it's sufficiently</p> <p>24 accurate and recent enough, and by that I mean -- when I</p> <p>25 say it, I mean the decennial census data, is sufficiently</p>
<p style="text-align: right;">Page 54</p> <p>1 Q. But -- so you didn't include -- you did a</p> <p>2 similar analysis for elections before 2012, but you didn't</p> <p>3 include those in your report?</p> <p>4 A. That's correct, but I would have a hard time</p> <p>5 remembering what they looked like. I remember the -- I</p> <p>6 remember the overall relationship looking very similar.</p> <p>7 Q. Okay. Now, on Page 15, Figure 6, these are</p> <p>8 your ecological inference estimates for black and white</p> <p>9 turnout in Ferguson-Florissant school board elections,</p> <p>10 right?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Now, in your turnout analysis here, you</p> <p>13 also calculate turnout as the number of ballots cast</p> <p>14 divided by registered voters, correct?</p> <p>15 A. This is the -- this comes from the ecological</p> <p>16 inference analysis. I need to refresh my memory about</p> <p>17 this.</p> <p>18 Q. So as you're doing that, I guess to clarify</p> <p>19 what my question is, I want to understand if your measure</p> <p>20 of turnout for your ecological inference estimate here is</p> <p>21 the same as your measure for turnout in your correlation</p> <p>22 analysis on the previous page. Is it ballots cast divided</p> <p>23 by registered voters, or is it some other measure of</p> <p>24 turnout?</p> <p>25 A. So the question is -- is whether, again, we</p>	<p style="text-align: right;">Page 56</p> <p>1 accurate and recent enough to ascertain the total voting</p> <p>2 age population and the percent black voting age population</p> <p>3 of each precinct in the Ferguson-Florissant school</p> <p>4 district, correct, Dr. Rodden?</p> <p>5 A. It allowed us to make the -- it allows me to</p> <p>6 make the comparisons that I make here. The -- in an ideal</p> <p>7 world there would be block level decennial numbers that I</p> <p>8 could use. I should also add that I use the 2000 census</p> <p>9 for the earlier -- for the earlier years, so I'm trying to</p> <p>10 use the most appropriate data based on what's available.</p> <p>11 Q. And when you say you're using the most</p> <p>12 appropriate data based on what's available, you are using,</p> <p>13 just so I understand what you're doing, you're using</p> <p>14 decennial census data to determine the voting age</p> <p>15 population and the black voting age population of each</p> <p>16 precinct within the Ferguson-Florissant school district,</p> <p>17 correct?</p> <p>18 A. For the purposes of this analysis, that was</p> <p>19 the best I could do, yes.</p> <p>20 Q. Okay. Now, you reference in your reports the</p> <p>21 Census Bureau's American Community Survey data, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Now, that's different from the decennial</p> <p>24 census, right?</p> <p>25 A. Yes.</p>

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<p>1 Q. Now, the decennial census is an actual</p> <p>2 enumeration, or at least purports to be an actual</p> <p>3 enumeration of the entire population, correct?</p> <p>4 A. It is an effort to achieve the unachievable,</p> <p>5 but it is a fine effort.</p> <p>6 Q. It's a good effort, right?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And political scientists use the</p> <p>9 decennial census data for all sorts of purposes, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Now, the American Community Survey data, or</p> <p>12 ACS, which I'll call it for short, that's based on a</p> <p>13 sample of about two percent of the population, right?</p> <p>14 A. Each -- I don't recall the percentage, but</p> <p>15 that sounds right.</p> <p>16 Q. Okay. It's based on a small percentage --</p> <p>17 A. Thought it was higher than that, but --</p> <p>18 Q. -- of the population?</p> <p>19 A. It's based on a sample, we can agree on that.</p> <p>20 Q. And because it's based on a sample, it has</p> <p>21 error margins associated with it; is that right?</p> <p>22 A. There are two types of bias we need to be</p> <p>23 concerned with here. One is sampling bias, the other is</p> <p>24 non-sampling bias.</p> <p>25 Q. So I'm just asking about sampling bias.</p>	<p>1 they attempt to measure the population of different</p> <p>2 districts, they use the decennial census data and not the</p> <p>3 ACS, correct?</p> <p>4 A. Of course, because the census data is reported</p> <p>5 at the level of blocks and they are plugging the software</p> <p>6 into their computers in order to draw districts, so the</p> <p>7 ACS is not suitable to that task.</p> <p>8 Q. Okay. So if you were trying to draw districts</p> <p>9 for a state even five years after a census, like in 2015,</p> <p>10 if the state of Missouri wanted to redistrict, they would</p> <p>11 continue to use 2010 decennial census data and not the</p> <p>12 more recent ACS estimates for that purpose, correct?</p> <p>13 A. Because of the lack of block level data, they</p> <p>14 would be forced to, yes.</p> <p>15 Q. Now, I want to return to your calculation of</p> <p>16 turnout here. We established before when you calculate</p> <p>17 turnout, it's votes divided by registered voters, right?</p> <p>18 A. Ballots cast divided by registered voters.</p> <p>19 Q. Okay. Now, based on that calculation, do we</p> <p>20 know whether or not the actual number of votes cast by</p> <p>21 whites is roughly equal to the actual number of votes cast</p> <p>22 by blacks?</p> <p>23 A. Do you mean based on the analysis in Figure 6?</p> <p>24 Because we would need to know --</p> <p>25 Q. Uh-huh. Yes.</p>
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<p>1 A. Yes.</p> <p>2 Q. There's sampling bias, right?</p> <p>3 A. And what is preferable about a census is that</p> <p>4 it minimizes sampling bias, and we have some sampling bias</p> <p>5 in the ACS which we need to take into account.</p> <p>6 Q. And that sampling bias means it has confidence</p> <p>7 intervals or error margins associated with the numbers</p> <p>8 that are reported in the ACS, correct?</p> <p>9 A. Yes, and it's based on the sampling procedure.</p> <p>10 Q. And those confidence intervals are larger if</p> <p>11 the sample is smaller, correct?</p> <p>12 A. Yes.</p> <p>13 Q. So when you're using the ACS data, when you</p> <p>14 get down to smaller geographic subunits, the margins of</p> <p>15 error increase; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. And when you slice down to individual</p> <p>18 demographic groups within geographic areas, the confidence</p> <p>19 intervals, the error margins increase as well, correct?</p> <p>20 A. That's correct.</p> <p>21 Q. Okay. Now, when the federal government</p> <p>22 apportions representation in congress amongst the states,</p> <p>23 it uses decennial census data and not the ACS, correct?</p> <p>24 A. That's correct.</p> <p>25 Q. And when states engage in redistricting and</p>	<p>1 A. -- the -- we would need to know the -- we</p> <p>2 would need to have some sense of the numbers of -- this is</p> <p>3 just giving us a percentage, and as you point out, we are</p> <p>4 basing this on the 2010 decennial census. Just -- that is</p> <p>5 -- those are the, you know, the share of African-Americans</p> <p>6 in the population, in the voting age population that is</p> <p>7 being considered here, does not change every year. It is</p> <p>8 a rather blunt number that comes from the 2010 census.</p> <p>9 So yeah, the answer to your question is that</p> <p>10 if we wanted to know -- for each of the dots on this</p> <p>11 graph, if we wanted to know is the electorate -- are the</p> <p>12 people who are showing up to vote, are they -- are more of</p> <p>13 them African-American or more of them whites, we would</p> <p>14 want to combine this information with some better</p> <p>15 information about the overall district population, which</p> <p>16 the ACS does give us. Because as you pointed out, the ACS</p> <p>17 allows us to make inferences about groups of a certain</p> <p>18 size, and the Census Department is very clear about the</p> <p>19 conditions under which we might choose to use the -- I</p> <p>20 mean to use the five-year ACS, those in which we might use</p> <p>21 the three-year ACS, or those in which we might want to use</p> <p>22 the one-year ACS, and the Census Department tells us that</p> <p>23 a place that has a population of 20,000 is one in which</p> <p>24 the -- in which the three-year ACS can be used.</p> <p>25 The population of the Ferguson-Florissant</p>

15 (Pages 57 to 60)

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<p style="text-align: right;">Page 61</p> <p>1 district is well beyond 20,000. So if the task is to</p> <p>2 understand the size of the African-American voting age</p> <p>3 population in, say, 2014, we have a tool for that. We</p> <p>4 have -- we have something better than the census. We have</p> <p>5 something that the United States government invested a lot</p> <p>6 of money in and that the Census Department is very good</p> <p>7 at. They removed all of the interesting -- for a social</p> <p>8 scientist, all of the interesting variables related to</p> <p>9 income and poverty and so forth, took them out of the</p> <p>10 long-form census, perhaps as a money-saving move, put them</p> <p>11 into the ACS so that they try to do a very good sample</p> <p>12 mid-decade of the ACS, so we can get all the information,</p> <p>13 aggregate it up and understand something about those</p> <p>14 indicators. But we're in a very good position, using the</p> <p>15 ACS, to understand, for instance in 2012, what is the</p> <p>16 African-American voting age population and what is the</p> <p>17 white voting age population.</p> <p>18 Q. I'm sorry to interrupt. I'm just going to</p> <p>19 interrupt you, because I think you've misapprehended my</p> <p>20 question, and if you want to talk more about the ACS or</p> <p>21 the decennial with your counsel, that's perfectly fine</p> <p>22 with me.</p> <p>23 A. I must have misunderstood the question.</p> <p>24 Q. Yeah. My question was not about the decennial</p> <p>25 or the ACS data. My question was about the way that you</p>	<p style="text-align: right;">Page 63</p> <p>1 Q. Okay. So in your opinion --</p> <p>2 A. We'll agree on that.</p> <p>3 Q. Okay. So in your opinion, Ferguson-Florissant</p> <p>4 school district is close to 50/50 black and white in terms</p> <p>5 of the voting age population, right?</p> <p>6 A. I think we'll all agree on that.</p> <p>7 Q. I don't know about that, but let's just stick</p> <p>8 with your opinion now. Now, let's assume for a moment</p> <p>9 that 100 percent of the white voting age population is</p> <p>10 registered to vote.</p> <p>11 A. Uh-huh.</p> <p>12 Q. Okay? So you have 100 registered white voters</p> <p>13 in this hypothetical jurisdiction.</p> <p>14 A. Yes.</p> <p>15 Q. Now, let's assume that 50 percent of the black</p> <p>16 voting age population is registered to vote. You have 50</p> <p>17 registered black voters in this jurisdiction.</p> <p>18 A. These data are available and they're very easy</p> <p>19 to analyze. We have --</p> <p>20 Q. I'm just sticking with my hypothetical.</p> <p>21 A. We do have registered voters and we -- the</p> <p>22 correlation between -- at the precinct level between the</p> <p>23 registered voters and voting age population is extremely</p> <p>24 high.</p> <p>25 Q. Okay. Well --</p>
<p style="text-align: right;">Page 62</p> <p>1 calculate turnout here as a percentage of ballots cast</p> <p>2 divided by registered voters, right? And what I'm trying</p> <p>3 to get at is you did not attempt -- well, here, let me</p> <p>4 give you a hypothetical. Okay. Let's take a jurisdiction</p> <p>5 with 100 African-Americans of voting age population and</p> <p>6 100 whites of voting age population, okay? Start there,</p> <p>7 right?</p> <p>8 A. Uh-huh.</p> <p>9 Q. So that jurisdiction has rough parity between</p> <p>10 blacks and whites in terms of VAP, V-A-P, voting age</p> <p>11 population.</p> <p>12 A. Yes.</p> <p>13 Q. Now, it's roughly 50/50 black and white?</p> <p>14 A. Yeah.</p> <p>15 Q. That's your assessment of -- correct me if I'm</p> <p>16 wrong, but that's essentially your assessment of what the</p> <p>17 Ferguson-Florissant school district looks like, right?</p> <p>18 It's about 50/50 black and white; that's your opinion?</p> <p>19 A. No longer. Its voting age population is an</p> <p>20 African-American majority. That is my opinion.</p> <p>21 Q. Okay. Well, let's just stay then with my --</p> <p>22 A. Yeah.</p> <p>23 Q. -- hypothetical.</p> <p>24 A. But it's close. It's close. It's not</p> <p>25 overwhelming.</p>	<p style="text-align: right;">Page 64</p> <p>1 A. There are very few people who are in the VAP</p> <p>2 who are not registered.</p> <p>3 Q. Okay.</p> <p>4 A. So if the question is could it be that</p> <p>5 registration rates are radically different among</p> <p>6 African-Americans and whites, not really.</p> <p>7 Q. Well --</p> <p>8 A. Not from the data I've seen.</p> <p>9 Q. That wasn't the question that I asked, Dr.</p> <p>10 Rodden. My question was about my hypothetical, right? So</p> <p>11 in my hypothetical, right, where there is a gap in</p> <p>12 registration rates between whites and blacks, right, you</p> <p>13 have 100 white registered voters and 50 black registered</p> <p>14 voters, correct?</p> <p>15 A. Uh-huh.</p> <p>16 Q. Okay. Now, let's assume that half of all</p> <p>17 registered voters, both white and black, turn out. So the</p> <p>18 way that you've calculated turnout rates as a percentage</p> <p>19 of registered voters, there's parity between whites and</p> <p>20 blacks, correct?</p> <p>21 A. In your example?</p> <p>22 Q. Hypothetical, yes.</p> <p>23 A. Yes.</p> <p>24 Q. But in my example there would be 50 white</p> <p>25 voters and only 25 black voters, correct?</p>

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<p>1 A. In your example in which half of 2 African-Americans are not registered?</p> <p>3 Q. Yes.</p> <p>4 A. Sure, that would be the case. This 5 hypothetical is not applicable in the district where there 6 is no evidence of any asymmetry in registration.</p> <p>7 Q. Didn't ask whether or not it was applicable in 8 the district. I'm just asking you to stick with my 9 hypothetical for a moment here, Dr. Rodden.</p> <p>10 A. Okay.</p> <p>11 Q. So in my hypothetical, right, white voters 12 outnumber black voters two to one, correct?</p> <p>13 A. So we're in a hypothetical where there are 100 14 white voters, there are 100 -- sorry, voting age 15 population, correct? I want to make sure I understand the 16 hypothetical. So there are 100 voting age whites, there 17 are 100 voting age blacks and there are 100 of the whites 18 who are registered and 50 of the African-Americans who are 19 registered?</p> <p>20 Q. Yes.</p> <p>21 A. Okay. And the question is?</p> <p>22 Q. Let's assume you have 50 percent turnout among 23 both groups. Calculating turnout the way that you 24 calculate turnout in this report, ballots divided by 25 registered voters, in that scenario you would have 50</p>	<p>1 include in a footnote.</p> <p>2 Q. Okay. So there's no information about 3 relative registration rates between whites and blacks in 4 the Ferguson-Florissant school district in your report; is 5 that correct?</p> <p>6 A. I would be happy to write a supplemental 7 report and provide that information if required.</p> <p>8 Q. That's great. My question is in your report 9 is there any information that I can find about relative 10 registration rates between whites and blacks in the 11 Ferguson-Florissant school district?</p> <p>12 A. No, I don't think so.</p> <p>13 Q. Okay. What is the -- what are the comparative 14 registration rates between whites and blacks in the 15 Ferguson-Florissant school district?</p> <p>16 A. I don't have the data in front of me. As I 17 said, I would be happy to do that analysis.</p> <p>18 Q. Let's mark this as Rodden Exhibit 5. 19 (Whereupon, Rodden Deposition Exhibit No. 5 20 was marked for identification.)</p> <p>21 MS. ORMSBY: Are they all the same?</p> <p>22 Q. Yes. So this is census data concerning 23 registration rates in the various states, Dr. Rodden, 24 downloaded from the Census Bureau's website. I would like 25 you to turn to Missouri. They're in alphabetical order</p>
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<p>1 white voters and 25 black voters, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So in this scenario white voters 4 outnumber blacks two to one, correct?</p> <p>5 A. White voters on election day?</p> <p>6 Q. Yeah.</p> <p>7 A. Showing up to the polls?</p> <p>8 Q. Yes.</p> <p>9 A. Yes.</p> <p>10 Q. Okay. But the way that you calculate turnout 11 as ballots divided by registered voters, one wouldn't know 12 that looking at this hypothetical, right? You would 13 assume that there was parity, even though, in fact, white 14 voters vastly outnumber black voters on election day, 15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. Now, given the way that you calculate 18 turnout in this report, right, one would need to know 19 something about registration rates in order to make the 20 inference that there's parity between white voters and 21 black voters on election day, correct?</p> <p>22 A. Yes. And in fact, I have collected the data 23 necessary. It did not seem -- it did not rise to the 24 level of something that I thought should be put in a 25 footnote. It was something I did, but did not -- did not</p>	<p>1 here. And what is the registration rate -- sorry. Let me 2 start that again. The registration rate for people 3 designated as black alone is 67.1 percent; is that right?</p> <p>4 A. Would you mind telling me the source of this 5 data?</p> <p>6 Q. This is the Census Bureau's -- this is from 7 the Census Bureau's website.</p> <p>8 A. So the census collects information from state 9 governments on registration? Is that correct? I'm not -- 10 just these are --</p> <p>11 Q. Have you heard of the -- you've heard of the 12 current population survey?</p> <p>13 A. Yes.</p> <p>14 Q. And you've heard of the voter registration 15 supplement --</p> <p>16 A. Yes.</p> <p>17 Q. -- within the current population survey?</p> <p>18 A. This is what this comes from?</p> <p>19 Q. Yes.</p> <p>20 A. Okay. Thank you.</p> <p>21 Q. Okay. So Missouri, according to the Census 22 Bureau's data for November of 2014, people identifying 23 themselves as black alone are registered at a rate of 67.1 24 percent; is that right?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 69</p> <p>1 Q. And people identifying themselves as white 2 alone are registered at a rate of 72.2 percent; is that 3 correct? 4 A. Yes. 5 Q. So according to the Census Bureau's data for 6 November of 2014, whites have a higher registration rate 7 than blacks by about five points; is that right? 8 A. Yes. 9 Q. So in Missouri, if we were to find that 10 turnout rates between whites and blacks are equal, and 11 when I say turnout rates, I mean turnout rates the way you 12 calculate them by votes divided by registered voters, 13 right? In Missouri, that would not mean that the number 14 of whites and blacks on election day are equal, because 15 there's a disparity in the registration rate, correct, Dr. 16 Rodden? 17 A. I've shown elsewhere in my report that 18 disparities between African-Americans and whites in the 19 state of Missouri are far greater than they are in the 20 Ferguson-Florissant school district. There are several 21 socioeconomic indicators on which disparities between 22 African-Americans and whites are -- are much smaller in 23 the Ferguson-Florissant school district for many other 24 categories of the ACS including -- including educational 25 outcomes, poverty rates and income. So I would --</p>	<p style="text-align: right;">Page 71</p> <p>1 Court in determining turnout rates in the school district. 2 Furthermore, I would like to add that the 3 reason I hesitated for some time in answering your 4 question about Figure 6 is that I have done the ecological 5 inference analysis both ways using voting age population 6 as the denominator and using -- and using registered 7 voters as the denominator. I thought that through. I did 8 it both ways. The results were identical and it seemed 9 that the report was already sufficiently long, it wasn't 10 necessary to go into that, but again -- 11 Q. But you didn't report that here? 12 A. I did not, in the interest of brevity, but I 13 would be happy to provide supplemental information on that 14 if that would be useful. 15 Q. And when you say that one can't make 16 assumptions about the Ferguson-Florissant school district 17 that you've demonstrated that the indicators within the 18 Ferguson-Florissant school district are different from 19 Missouri as a whole in terms of disparities, you're 20 referring to the socioeconomic disparities in one of your 21 rebuttal reports, right? 22 A. Which political scientists know feed directly 23 into turnout. 24 Q. Okay. 25 A. And registration behavior.</p>
<p style="text-align: right;">Page 70</p> <p>1 Q. My question was not about socioeconomic 2 disparities and it wasn't about Ferguson-Florissant even 3 specifically. I just asked a question about Missouri 4 generally. 5 A. Oh, I'm sorry. 6 Q. So given the difference in registration rates 7 in Missouri, with whites having a registration rate that's 8 about five points higher than blacks in Missouri, if we 9 were to present data that showed that the turnout rate 10 between whites and blacks in Missouri was equal, 11 calculating turnout the same way that you do in this 12 report which is votes divided by registered voters, in 13 fact, the number of white voters on election day would 14 exceed the number of black voters on election day, 15 correct, Dr. Rodden? 16 A. Yes. 17 Q. Okay. 18 A. But I do think it's appropriate for me, in 19 answering that question, to point out to the Court that -- 20 that the assumption that the Ferguson-Florissant school 21 district with respect to disparities between 22 African-Americans and whites is the same as the state of 23 Missouri is demonstrably a bad assumption, so I would not 24 find that hypothetical analysis, nor would I find the 25 state of Missouri analysis to be especially useful to the</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Okay. 2 A. There are differential -- people who live in 3 conditions of poverty are less likely to take the effort 4 to become registered and go through the hoops that one 5 needs to go through to get registered. 6 Q. There's no data in any of the four reports 7 that you presented comparing registration rates in 8 Ferguson-Florissant to Missouri as a whole, correct? 9 A. That is correct. 10 Q. And there's no data in any of your four 11 reports comparing black registration rates in the 12 Ferguson-Florissant school district to black registration 13 rates in Missouri as a whole, correct? 14 A. That's correct. 15 Q. Okay. Let's talk about Figure 6 in your 16 report, Page 15, your ecological inference estimates for 17 turnout. 18 A. Sure. 19 Q. I notice that there are some years for which 20 you do not present turnout data, like 2005 for instance. 21 A. Correct. 22 Q. Is that right? 23 A. Correct. 24 Q. And the reason for that, correct me if I'm 25 wrong, Dr. Rodden, is that seats on the</p>

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1 Ferguson-Florissant school board are uncontested in some
2 years, and so no election is held and no voting takes
3 place for the Ferguson-Florissant school board in some
4 years; is that right?

5 A. That's correct.

6 Q. And because there are no elections for
7 Ferguson-Florissant school board in those years, you don't
8 have any turnout data to present for those years, correct?

9 A. That's correct.

10 Q. When no election takes place, you just exclude
11 those years from your turnout analysis, right?

12 A. To do otherwise would be rather -- would be
13 hard for me to come up with turnout analysis in an
14 election when there's no --

15 Q. Well, you don't, for instance, say zero votes
16 by whites and zero votes by blacks, so turnout is equal?

17 A. That is correct. I did not do that.

18 Q. All right. And you don't say -- you don't
19 sort of like try to create some kind of model that tries
20 to generate what turnout rates would have been for like
21 for hypothetical candidates in those years or anything
22 like that, right?

23 A. No.

24 Q. And you don't, say, take turnout for other
25 elections that took place during the same year and look at

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1 a separate chart, the turnout results from exogenous
2 elections?

3 A. Did not occur to me to do that.

4 Q. Didn't occur to you. You didn't think that
5 that would be particularly illuminating for purposes of
6 this exercise, right?

7 A. Not for a graph that is marked ecological
8 inference estimates for African-American and white turnout
9 for each contested Ferguson-Florissant school board
10 election. I wanted to focus on school board elections
11 because this case is about school board. I do think
12 exogenous races are useful, and I'm sure we will talk
13 about that later, but it did not occur to me to use the
14 exogenous races in the turnout graph presented here. And
15 on further reflection, it would have been interesting to
16 have done some turnout analysis for those races, but it
17 didn't occur to me when I was writing this section.

18 Q. You would agree, though, that in trying to
19 assess relative turnout rates for Ferguson-Florissant
20 school board elections, the endogenous elections are more
21 illuminating than exogenous ones, right?

22 A. I would leave it up to the Court to decide
23 what was more illuminating. Given that this is a lawsuit
24 about the school board elections, that is where I started.
25 And with more time, I certainly would have been happy to

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1 the turnout rates within the Ferguson-Florissant school
2 district's precincts and use that as sort of a proxy for
3 turnout in the Ferguson-Florissant school board elections
4 for which no school board elections took place, right?

5 A. I could have done that. It seemed like that
6 would be -- it would make for a strange graph to have data
7 that come from a different election, a different source
8 for those years, so I did not do that.

9 Q. We call this, in political science analysis,
10 exogenous elections, right? Those are different kinds of
11 elections than the ones at issue between the parties,
12 right?

13 A. That's -- that's correct.

14 Q. As opposed to endogenous elections, which in
15 this case would be the Ferguson-Florissant school board
16 elections?

17 A. Yes.

18 Q. Okay. And you didn't include turnout results
19 from exogenous elections because you thought it would be
20 kind of, I think you put it weird, to mix and match those
21 numbers?

22 A. I certainly could have -- I could have done it
23 and made a separate graph, or simply marked those with a
24 different color, but it did not occur to me to do that.

25 Q. And you didn't present them separately in like

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1 have looked at turnout in these other races.

2 Q. Now, this chart for each estimate of black and
3 white turnout in each election, there's a dot, and lines
4 going up and down from each dot?

5 A. Yes.

6 Q. Right? Am I correct that the dot represents
7 what you could call the point estimate for turnout of each
8 group in each election?

9 A. Yes.

10 Q. And the lines going up and down from the dots
11 are the confidence interval for those estimates; is that
12 right?

13 A. Yes.

14 Q. Now, again, please correct me if I'm wrong,
15 but am I right that the confidence interval is the range
16 within which you have a reasonable certainty as to the
17 actual turnout figure for each group in each election to a
18 95 percent degree of confidence?

19 A. Yes. That's not a bad summary.

20 Q. And that 95 percent degree of confidence,
21 that's the level of certainty that's typically associated
22 in peer-reviewed political science research, correct?

23 A. It is. There is a lot of debate about whether
24 this is how we should continue to operate, but this is
25 what social scientists typically do.

19 (Pages 73 to 76)

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<p style="text-align: right;">Page 77</p> <p>1 Q. It's consistent with generally accepted 2 standards in the field? 3 A. Yes, it is. 4 Q. Now, the relationship between the point 5 estimate and the confidence interval is that the point 6 estimate is the median of the confidence interval, 7 correct? 8 A. Yes. 9 Q. And we don't know to the same level of 10 precision that we talked about earlier, that 95 percent, 11 where, within the confidence interval, the actual value 12 lies, correct? 13 A. We are -- we have 95 percent confidence that 14 it falls somewhere in that -- in that range, but the point 15 estimate is the one that we typically talk about and 16 report in our research, although a case could be made for 17 reporting nearly the range. It depends on the application 18 one has in mind. 19 Q. Okay. So could you turn to Page 16, the next 20 page in your report, Paragraph 26. And I'm looking at the 21 third sentence that starts with "When one of the dots." 22 And you write here, "When one of the dots is only slightly 23 higher than the one of the opposite color and sits within 24 the confidence interval of the other, we cannot say with 25 confidence that the estimates of black and white turnout</p>	<p style="text-align: right;">Page 79</p> <p>1 referred to of testing statistical significance beyond 2 just looking at the confidence intervals? 3 A. I did not, right. 4 Q. And your -- when the confidence intervals for 5 turnout between blacks and whites in a particular 6 election, you're saying in this case -- I'm sorry -- in 7 this report, that as a statistical matter, they're 8 essentially indistinct; is that right? 9 A. Oh, I'm saying they're indistinct in 2012, 13 10 and 14. 11 Q. And the reason you're saying they're -- 12 A. They're quite distinct in 2011 and 2015. 13 Q. Oh, right. No, I'm not saying that you're 14 saying they are indistinct every time. I'm saying that 15 when the confidence intervals overlap -- 16 A. In those cases. 17 Q. If you wouldn't mind. I know we've talked 18 over each other a lot, and I apologize for the times that 19 I've done it. I just want to get the record clear here. 20 In 12, 13 and 14 when you say that the turnout rates 21 between blacks and whites are statistically indistinct, 22 it's because the confidence intervals between the 23 estimates for black and white turnout in each of those 24 years overlaps significantly, correct? 25 A. I want to make sure I'm not misstating. Will</p>
<p style="text-align: right;">Page 78</p> <p>1 are different." 2 Did I read that accurately? 3 A. Yes. 4 Q. Okay. So is it fair to say that what you mean 5 here is that where the point estimate for turnout of one 6 group falls within the confidence interval of turnout for 7 another group, you cannot say with statistical certainty 8 whether there's any difference between the turnout of the 9 two groups; is that right, Dr. Rodden? 10 A. Yes, but I should clarify that this is a 11 visual display and this is rule of thumb that is meant to 12 assist the reader in wading through a visual display. 13 Q. Uh-huh. 14 A. What I did not do is -- is -- is conduct a 15 separate test to analyze whether the -- whether these were 16 statistically distinguishable from one another. 17 Q. Uh-huh. 18 A. The -- a better thing to do than to simply 19 look at the confidence interval and draw inferences in the 20 way that I described would be to do that, but I was -- I 21 was telling the reader that one can get a pretty good 22 sense of the data by doing that rule of thumb analysis 23 that I described. 24 Q. And for purposes of your report here, you 25 didn't conduct that separate analysis that you just</p>	<p style="text-align: right;">Page 80</p> <p>1 you answer -- just ask the question one more time? 2 Q. Sure. When you say in 2012, 2013 and 2014 3 that black and white turnout is statistically indistinct 4 in each of those years, that's because the confidence 5 intervals for your turnout estimates for each of those 6 groups overlaps in each of those years, correct? 7 A. It's because the point estimate lies within 8 the confidence interval. 9 Q. Got it. Okay. So in 2014, for instance, the 10 point estimate for white turnout is higher than the point 11 estimate for black turnout? 12 A. Yes. 13 Q. But you do not, from that basis, opine that 14 white turnout is higher than black turnout. You say 15 they're statistically indistinct because the point 16 estimates for each lie within the confidence intervals for 17 each; is that correct? 18 A. As I -- yeah, as I said before, this is a -- 19 this is a -- it's a rule of thumb that I apply in 20 presenting the data here. I would -- I would just -- 21 look, I would be clear with the reader, the point estimate 22 is higher, it is -- it falls just short of statistical 23 significance, and then the reader can make what they will 24 of that. 25 Q. But essentially the point is in 2014 the point</p>

20 (Pages 77 to 80)

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<p style="text-align: right;">Page 81</p> <p>1 estimates for black and white turnout fall within the</p> <p>2 confidence intervals for each, and therefore you conclude</p> <p>3 that they are statistically indistinguishable, correct?</p> <p>4 A. That's correct.</p> <p>5 Q. And failing to report those confidence</p> <p>6 intervals here, just reporting the point estimates, would</p> <p>7 that be consistent with generally accepted standards in</p> <p>8 political science for peer review?</p> <p>9 A. No. We like confidence intervals.</p> <p>10 Q. All right. I want to show you a chart. We</p> <p>11 can mark this as Rodden Exhibit 6.</p> <p>12 (Whereupon, Rodden Deposition Exhibit No. 6</p> <p>13 was marked for identification.)</p> <p>14 Q. Can we do 6 and 7?</p> <p>15 (Whereupon, Rodden Deposition Exhibit No. 7</p> <p>16 was marked for identification.)</p> <p>17 Q. We'll just go over this quickly and then take</p> <p>18 a little break. This is a spreadsheet from an Excel file</p> <p>19 that your counsel sent to us in response to a discovery</p> <p>20 request. I believe that this contains the numerical</p> <p>21 values for what's represented in Figure 6. Does that look</p> <p>22 correct to you, Dr. Rodden?</p> <p>23 A. It does, yes.</p> <p>24 Q. Okay. And I've given you what's marked as</p> <p>25 Figure 7 -- I mean Rodden Exhibit 7. It's the same</p>	<p style="text-align: right;">Page 83</p> <p>1 A. I hope I gave you the right data.</p> <p>2 Q. All right.</p> <p>3 A. But yes.</p> <p>4 Q. Okay. Why don't we take a break here, and</p> <p>5 when we get back, I want to ask you a few questions about</p> <p>6 this.</p> <p>7 A. Okay.</p> <p>8 (Whereupon, a recess was taken from 11:23 to</p> <p>9 11:36 A.M.)</p> <p>10 Q. So Dr. Rodden, could we turn to Page 16 of</p> <p>11 your report and Paragraph 26. Looking at the third to</p> <p>12 last sentence, a little more than halfway down that starts</p> <p>13 with "In six of the cases." Do you see that?</p> <p>14 A. Uh-huh.</p> <p>15 MS. ORMSBY: Where? I'm sorry.</p> <p>16 Q. Paragraph 26, four lines from the bottom.</p> <p>17 A. Yes.</p> <p>18 Q. Okay. You write, "In six of the cases white</p> <p>19 turnout estimates clearly surpass black turnout estimates,</p> <p>20 2001, 2003, 2006, 2009, 2011 and 2015. In the other six</p> <p>21 election years turnout differences between the two racial</p> <p>22 groups are indistinguishable."</p> <p>23 Did I read that correctly?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. So there were 12 elections for which</p>
<p style="text-align: right;">Page 82</p> <p>1 information, but we formatted it so it's a little easier</p> <p>2 to read. The columns and the rows are shaded.</p> <p>3 A. Okay.</p> <p>4 Q. I just wanted to provide that to you to make</p> <p>5 it easier for you when I ask you some questions going</p> <p>6 forward, but you can refer to either one. But does that</p> <p>7 look accurate, that 7 is the same data as 6?</p> <p>8 A. Yes. I'll accept that it is.</p> <p>9 Q. Okay. Now, to just understand what's going on</p> <p>10 in these charts, the second column is your point estimate</p> <p>11 for black turnout in each collection -- in each election,</p> <p>12 right?</p> <p>13 A. I believe so, yes.</p> <p>14 Q. And the third column is your point estimate</p> <p>15 for white turnout in each election?</p> <p>16 A. Oh, yes. Yes.</p> <p>17 Q. And the next two columns represent the end</p> <p>18 points for the confidence intervals for black turnout in</p> <p>19 each election, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And the last two columns represent the end</p> <p>22 points for the confidence intervals of white turnout in</p> <p>23 each election, correct?</p> <p>24 A. I certainly hope so.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 84</p> <p>1 you report results in terms of turnout for</p> <p>2 Ferguson-Florissant school board between 2000 and 2015,</p> <p>3 correct?</p> <p>4 A. Looks like it, yes.</p> <p>5 Q. And in six out of the 12 of those elections,</p> <p>6 white turnout exceeded black turnout at a statistically</p> <p>7 significant -- to a statistically significant degree,</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. So another way of saying that is that in half</p> <p>11 of the elections since 2000, white turnout exceeded black</p> <p>12 turnout to a statistically significant degree, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And in the other six elections you do not find</p> <p>15 a statistically significant difference between black and</p> <p>16 white turnout, correct?</p> <p>17 A. That's correct.</p> <p>18 Q. So is it fair to say that since going back to</p> <p>19 2000, in 12 elections over 15 years, black turnout has</p> <p>20 never exceeded white turnout to a statistically</p> <p>21 significant degree?</p> <p>22 A. Not quite.</p> <p>23 Q. How have I stated that incorrectly?</p> <p>24 A. No, I'm sorry. The answer was not quite.</p> <p>25 That it was not quite achieved -- there was one year in</p>

21 (Pages 81 to 84)

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<p style="text-align: right;">Page 85</p> <p>1 which it was very close and it was not quite, so the</p> <p>2 answer is yes, if I remember how you phrased it, yes.</p> <p>3 Q. So yes, black turnout has never exceeded white</p> <p>4 turnout in the elections that you've analyzed to a</p> <p>5 statistically significant degree?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. The last sentence in this paragraph on</p> <p>8 Page 16 is, "In three of these cases the point estimates</p> <p>9 for African-American turnout are actually higher, though</p> <p>10 the difference is not quite statistically significant."</p> <p>11 A. That's correct.</p> <p>12 Q. I read that right?</p> <p>13 A. Yes.</p> <p>14 Q. Now, if we look at your point estimates, and</p> <p>15 you can look at, you know, the spreadsheet or whatever,</p> <p>16 black turnout only exceeds white turnout in terms of the</p> <p>17 point estimate one time; isn't that right, in 2012?</p> <p>18 A. Yes.</p> <p>19 Q. So when you wrote here that the point estimate</p> <p>20 for African-American turnout was higher than for white</p> <p>21 turnout three times, that was incorrect?</p> <p>22 A. That is incorrect. I would only supplement by</p> <p>23 saying that I conducted this analysis using two different</p> <p>24 denominators, as I mentioned before, one being the voting</p> <p>25 age population and one being registered voters, and it's</p>	<p style="text-align: right;">Page 87</p> <p>1 the two most recent elections in which white turnout</p> <p>2 clearly exceeds black turnout are the 2011 and 2015</p> <p>3 elections, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And you attribute that, in part, to the</p> <p>6 mayoral elections in Florissant in each of those years,</p> <p>7 correct?</p> <p>8 A. I do, but I would not claim that that is the</p> <p>9 only reason. I don't really know. I find this puzzling.</p> <p>10 Q. So you don't know why turnout for whites is</p> <p>11 statistically significantly higher in 2011 and 2015 than</p> <p>12 for blacks?</p> <p>13 A. I've made the case that it is -- the thing</p> <p>14 that is different about these -- about these races that is</p> <p>15 most obvious is the presence of a competitive mayoral</p> <p>16 election in the community that has a larger white</p> <p>17 population.</p> <p>18 Q. And --</p> <p>19 A. And this is --</p> <p>20 Q. -- I'm asking Florissant.</p> <p>21 A. And this is just based on my own knowledge of</p> <p>22 having grown up there, that the very white neighborhood of</p> <p>23 old town Florissant is a place where these particular</p> <p>24 candidates generated a great deal of excitement. And when</p> <p>25 you look at the scatter plots of the kind we were looking</p>
<p style="text-align: right;">Page 86</p> <p>1 possible that when I was writing, I was imagining I would</p> <p>2 put the other graph in the paper, so I apologize for that</p> <p>3 mis -- that misrepresentation at the end of Paragraph 23.</p> <p>4 Q. 26 you mean?</p> <p>5 A. Yes, 26.</p> <p>6 Q. Okay. I just wanted the record to be clear.</p> <p>7 A. Yes.</p> <p>8 Q. So in all 12 -- in the 12 elections that you</p> <p>9 looked at over 15 years, the point estimate for</p> <p>10 African-American turnout was higher than for white turnout</p> <p>11 only one time, correct?</p> <p>12 A. That is correct.</p> <p>13 Q. And that one time it was not higher to a</p> <p>14 statistically significant degree, correct?</p> <p>15 A. Correct.</p> <p>16 Q. So that one time the turnout rates between</p> <p>17 black and whites were, in your view, statistically</p> <p>18 indistinguishable, correct?</p> <p>19 A. Yes, but as you mentioned earlier, it is</p> <p>20 important to understand that the voting age population of</p> <p>21 African-Americans now exceeds the voting age population of</p> <p>22 whites, so if we actually are interested in the electorate</p> <p>23 on election day, we might draw a different conclusion in</p> <p>24 the very recent years.</p> <p>25 Q. Okay. Now, I believe, looking at your graph,</p>	<p style="text-align: right;">Page 88</p> <p>1 at just a little bit earlier, the kinds of scatter plots</p> <p>2 that were in Figure 5, one sees a little bit of what's</p> <p>3 going on; that in the left-hand side of the scatter plot</p> <p>4 we see -- we see that some of these old town Florissant</p> <p>5 places have really high turnout in those elections.</p> <p>6 Q. You didn't, Dr. Rodden, attempt to calculate</p> <p>7 turnout rates comparatively in the Ferguson-Florissant</p> <p>8 school district in those two elections while subtracting</p> <p>9 out Florissant, did you?</p> <p>10 A. Get rid of Florissant and redo the analysis?</p> <p>11 Q. Yeah. You didn't try to do that, did you?</p> <p>12 A. I don't recall.</p> <p>13 Q. That would be one way to test the effect of</p> <p>14 whether or not the mayoral election in Florissant had an</p> <p>15 effect on turnout in the Ferguson-Florissant school</p> <p>16 district in those elections, right? You could have</p> <p>17 subtracted Florissant out and seen if turnout, in fact,</p> <p>18 went up outside of Florissant or was flat outside of</p> <p>19 Florissant, right?</p> <p>20 A. When you say went up or was flat, you mean</p> <p>21 re-examine the relationship between race and turnout</p> <p>22 without Florissant?</p> <p>23 Q. Yes.</p> <p>24 A. That would be a reasonable thing to do.</p> <p>25 Q. Right. That would be one way to</p>

22 (Pages 85 to 88)

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<p style="text-align: right;">Page 89</p> <p>1 quantitatively assess whether or not the Florissant 2 mayoral election had an effect on white turnout in the 3 Ferguson-Florissant school district in those two years, 4 correct? 5 A. Yes. 6 Q. And you could have done that, right? 7 A. I'm not -- I will not go on record as saying I 8 didn't do it. I don't remember. It does seem like a 9 sufficiently reasonable thing to do, but -- I may have 10 done it. I don't remember. 11 Q. Okay. And we established earlier, didn't we, 12 Dr. Rodden, that to get through peer review, one should 13 quantitatively test hypotheses, not rely simply on sort of 14 qualitative judgments about whether or not something was 15 the cause of something else, right? 16 A. Yes. 17 Q. So would the assertion here that the 18 Florissant mayoral campaign caused white turnout to spike 19 in the Ferguson-Florissant school district during these 20 two years, that hypothesis or assertion would not survive 21 peer review according to the standards that we discussed 22 earlier today, correct? 23 A. If that was the purpose of the article was to 24 convince the reader that I have a finding about mayoral 25 elections and the impact of mayoral elections on turnout,</p>	<p style="text-align: right;">Page 91</p> <p>1 insufficient. 2 Q. Okay. Can we look back at your report, Page 3 16, Paragraph 28. You write, "As discussed below, the 4 2011 election attracted unusually high turnout due to 5 widespread anger over the revelation that a retiring 6 superintendent had been offered an exceptionally expensive 7 package of lifetime benefits. This led to a tax revolt of 8 sorts in which all of the sitting incumbents were removed 9 from office." 10 Did I read that correctly? 11 A. Yes. 12 Q. Okay. Would you describe black turnout in 13 this election as unusually high in 2011? And you can look 14 at the spreadsheet if that helps. 15 A. Sure. I was just looking at the graph. No. 16 Q. No. And in fact, black turnout is lower in 17 2011 as compared to the most recent election before that, 18 2009, correct? 19 A. Yes, that's correct. 20 Q. So only white turnout increased in 2011 as 21 compared to the previous election, correct? 22 A. That's correct. 23 Q. So then would it be fair to say that white 24 voters participated in the tax revolt that you're 25 referring to here?</p>
<p style="text-align: right;">Page 90</p> <p>1 this would not -- this is not the type of analysis one 2 would do. The analysis here is an effort to understand a 3 pattern of African-American and white turnout, and what 4 happens in that analysis is that they look very similar in 5 quite a good number of years, and then there are these two 6 big spikes that really strike the reader to then, in that 7 kind of analysis, tell the reader what they think might be 8 going on to cause those outliers. Yes, that type of a 9 post-analysis kind of discussion of outliers is absolutely 10 something one would do in a peer-reviewed article. 11 Q. But the attribution of a causal relationship 12 between the Florissant mayoral election and turnout 13 patterns in 2011 and 2015, that's not something that you 14 assessed quantitatively in this report, correct? 15 A. Not in the version of the report that is -- 16 not in the final report. I did satisfy myself with some 17 calculations that that was going on, but I realize that I 18 did not include any information like that in the report. 19 Q. But -- so that causal proposition that the 20 Florissant mayoral elections in 2011 and 2015 caused white 21 turnout to spike in those two years, that is not the kind 22 of causal assertion, the way that you've supported it here 23 in this report, that would survive peer review, correct? 24 A. As a discussion of outliers, it would be fine. 25 If that was the focus of the analysis, it would be</p>	<p style="text-align: right;">Page 92</p> <p>1 A. If that was a factor. Again, I have to 2 describe the spirit in which this analysis was done. When 3 I see two big outliers like that, I want to explain them 4 to the reader and provide some context, and indeed it 5 seems to have been the case that among -- that these 6 things kind of -- these kinds of issues seem to spread 7 through social networks in a way. 8 It seemed to be the case that people in -- 9 that people in Florissant were really -- there was a lot 10 of discussion about this. So in the news media reporting 11 there was a lot of anger among Florissant residents. And 12 again, I'm from Florissant, and my social network is based 13 on Florissant and I heard those people really talking 14 about this thing. 15 Q. Uh-huh. 16 A. I don't know much about -- about, you know, I 17 don't have a theory as to why this particular event would 18 have been more interesting to whites than 19 African-Americans. I don't have that. 20 Q. But you do say there was a tax revolt in the 21 2011 election? 22 A. That's my understanding mainly from media 23 reporting. 24 Q. Right. And when that tax revolt happened, 25 white turnout spiked as compared to the previous election,</p>

23 (Pages 89 to 92)

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<p style="text-align: right;">Page 93</p> <p>1 correct?</p> <p>2 A. Well, there was also a Florissant mayoral</p> <p>3 election which I've described as, I think, a more</p> <p>4 important factor. That was a very nasty and contested</p> <p>5 election.</p> <p>6 Q. In the 2011 election when the tax revolt</p> <p>7 occurred, black turnout did not spike; it, in fact,</p> <p>8 declined relative to the previous election, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Would it be then fair to infer that black and</p> <p>11 white voters responded to these events that you're</p> <p>12 describing in 2011 differently?</p> <p>13 A. I don't know. If the -- if the tax -- if this</p> <p>14 thing really was a factor, it appears to have been a</p> <p>15 factor in an asymmetric way, but I have no good story as</p> <p>16 to why that would be.</p> <p>17 Q. Can you think of any reasons why black and</p> <p>18 white voters may have responded to this incident with the</p> <p>19 superintendent in different ways? Could it stem from</p> <p>20 different views on taxes since this is a tax revolt?</p> <p>21 A. This was -- this is someone who was an</p> <p>22 outgoing white superintendent who had been given a very</p> <p>23 nice pension package, and people -- you know, working</p> <p>24 people, who themselves did not have such pension packages,</p> <p>25 found that to be obscene and they were angry with the</p>	<p style="text-align: right;">Page 95</p> <p>1 would find unusual. I think it's very frequently the case</p> <p>2 that when someone does some analysis and finds some</p> <p>3 relationship and there are a couple of outliers, there is</p> <p>4 some puzzling about what might cause those outliers, and</p> <p>5 it was in that spirit that I drew upon conversations with</p> <p>6 friends and family and included that in my report.</p> <p>7 Q. Can you name the friends and family that you</p> <p>8 discussed these issues with and upon which you based your</p> <p>9 opinion in this report?</p> <p>10 A. The reporting about the existence of this</p> <p>11 issue came from a number of media sources that I believe I</p> <p>12 provided, but then I also just had conversations with my</p> <p>13 immediate family and with a couple of other friends who</p> <p>14 live in the district.</p> <p>15 Q. Right. And that informed some of what you're</p> <p>16 stating here?</p> <p>17 A. It reinforced what I read in the media</p> <p>18 reports.</p> <p>19 Q. Okay. And who were those people?</p> <p>20 A. You would like the name of my mother and</p> <p>21 father and my sister?</p> <p>22 Q. Sure.</p> <p>23 A. Okay. John, Judy and Janelle Rodden are my</p> <p>24 immediate family.</p> <p>25 Q. And you talked about this issue with them?</p>
<p style="text-align: right;">Page 94</p> <p>1 school board for signing off on it. I don't know why -- I</p> <p>2 don't have a theory as to why anger over a compensation</p> <p>3 package for a superintendent would be greater among one</p> <p>4 racial group than the other. The outgoing superintendent</p> <p>5 was white. I don't know if that matters. He -- people --</p> <p>6 you know, there's -- a lot of people are -- a lot of</p> <p>7 people in Florissant are working people who probably don't</p> <p>8 have much in the way of a pension, so I think that really</p> <p>9 -- that really was something that angered them.</p> <p>10 Q. Fair to say that white voters participated in</p> <p>11 this tax revolt disproportionately as compared to black</p> <p>12 voters?</p> <p>13 A. I don't know.</p> <p>14 Q. You say that your information about this tax</p> <p>15 revolt came from your social network; is that right?</p> <p>16 A. Yes.</p> <p>17 Q. Is it common for political scientists to rely</p> <p>18 on her or his social network in peer-reviewed work?</p> <p>19 A. When one is facing a statistical outlier and</p> <p>20 one is trying to understand it, there is a kind of -- it</p> <p>21 is acceptable to, at the end of the analysis, to kind of</p> <p>22 hypothesize about what some other -- what some other</p> <p>23 possibilities might be without testing them, and in</p> <p>24 drawing upon what you know about the world, to present</p> <p>25 readers with a possible hypothesis is not something that I</p>	<p style="text-align: right;">Page 96</p> <p>1 A. Sure.</p> <p>2 Q. And you mentioned some friends, too. Who did</p> <p>3 you mention this?</p> <p>4 A. I have a friend that lives in Florissant by</p> <p>5 the name of Matt Koch, another friend by the name of Jerry</p> <p>6 Laws, another friend by the name of Mike Rose. These are</p> <p>7 all people who know the district well and recall the</p> <p>8 politics of different past years in the district.</p> <p>9 Q. And I believe your counsel represented to us</p> <p>10 that you don't have any notes from any of these</p> <p>11 conversations?</p> <p>12 A. No, absolutely not.</p> <p>13 Q. Okay. Can you turn to Page 17. Looking at</p> <p>14 the top paragraph that is continuing from the previous</p> <p>15 page, and you have a sentence, the last sentence here that</p> <p>16 states, "Increased turnout among both racial groups in</p> <p>17 2014 was likely a function of another controversy</p> <p>18 involving an outgoing superintendent discussed further</p> <p>19 below. And of course the 2015 election took place amid</p> <p>20 national attention and serious get-out-the-vote efforts</p> <p>21 following the Michael Brown shooting and associated</p> <p>22 protests."</p> <p>23 Did I read that right?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. The controversy in 2014 that you're</p>

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<p style="text-align: right;">Page 97</p> <p>1 referring to, I believe, is that the separation of the</p> <p>2 former superintendent, Art McCoy, from the school</p> <p>3 district?</p> <p>4 A. Yes.</p> <p>5 Q. And the controversy around that, you're</p> <p>6 positing here, may have caused turnout to increase in</p> <p>7 2014?</p> <p>8 A. Over the previous couple of years, yes.</p> <p>9 Q. And that makes the 2014 election, in your</p> <p>10 mind, different from some of the previous elections of the</p> <p>11 Ferguson-Florissant school district?</p> <p>12 A. Not the turnout level. You can see here the</p> <p>13 turnout level is not anything special. What is special</p> <p>14 about this election is that the correlation between the</p> <p>15 race of the population in the precinct and the race of the</p> <p>16 candidates voted for increased dramatically.</p> <p>17 Q. So the controversy you would describe as</p> <p>18 something special -- causing something special to happen</p> <p>19 in the 2014 election?</p> <p>20 A. Yes.</p> <p>21 Q. The 2015 election you're referring to in this</p> <p>22 paragraph, you say had national attention around it?</p> <p>23 A. Yes.</p> <p>24 Q. Because of the Michael Brown shooting?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 99</p> <p>1 high turnout.</p> <p>2 Q. And that's what I guess I was asking about.</p> <p>3 A. Yeah.</p> <p>4 Q. You think that the events of 2015 -- I'm sorry</p> <p>5 -- the events prior to the 2015 election, the national</p> <p>6 attention after the Michael Brown shooting, the</p> <p>7 get-out-the-vote efforts, these are special circumstances</p> <p>8 that may have affected turnout in 2015?</p> <p>9 A. I believe they may have increased turnout.</p> <p>10 That's one thing that might be special, but if we are</p> <p>11 interested in racial polarization, we see that in Figure 5</p> <p>12 racial polarization was -- I'm sorry, Figure 5 is not the</p> <p>13 one I meant to refer to. In terms of -- in terms of</p> <p>14 racial polarization of voting behavior, it was as captured</p> <p>15 by Figure 7. It does not appear -- in Figure 7 it appears</p> <p>16 that 2014 was the outlier, not 2015.</p> <p>17 So if I'm going to say that something is --</p> <p>18 that an election is special, I need to know on what</p> <p>19 dimension, and if it's just turnout, I will say yes, it</p> <p>20 was -- there was a high turnout in that election.</p> <p>21 Q. Okay. I would like to show you something</p> <p>22 we're going to mark as -- shift topics and show you</p> <p>23 something we're going to mark as Rodden Exhibit 8.</p> <p>24 (Whereupon, Rodden Deposition Exhibit No. 8</p> <p>25 was marked for identification.)</p>
<p style="text-align: right;">Page 98</p> <p>1 Q. And you think that may have caused turnout to</p> <p>2 increase in 2015?</p> <p>3 A. It's possible, yes.</p> <p>4 Q. And you also mentioned get-out-the-vote</p> <p>5 efforts in 2015?</p> <p>6 A. Yes. Based on media reports, I had the</p> <p>7 impression that people were putting more effort into this</p> <p>8 municipal election than would typically be the case.</p> <p>9 Q. And that national attention and those</p> <p>10 get-out-the-vote efforts, in your mind, that makes -- that</p> <p>11 marks something different about the 2015 election as</p> <p>12 compared to some previous ones?</p> <p>13 A. I think 2014, you know, it depends on -- I</p> <p>14 would say that we need to know what we're talking about,</p> <p>15 what -- different in what respect.</p> <p>16 Q. Uh-huh.</p> <p>17 A. Different in terms of voting outcomes,</p> <p>18 different in terms of turnout, I would say that with</p> <p>19 respect to turnout, it was the -- it was not the highest</p> <p>20 African-American turnout I reported. It actually was kind</p> <p>21 of, as I describe, a return to what African-American</p> <p>22 turnout looked like earlier around 2000. But as for</p> <p>23 whites, it was the second highest turnout they've had.</p> <p>24 You know, yeah, also the second highest turnout, just</p> <p>25 eyeballing the data, for African-Americans. So it was</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. I'll represent to you that these are Pages 9</p> <p>2 and 10 of the expert report of William Cooper.</p> <p>3 A. Okay.</p> <p>4 Q. On behalf of the plaintiffs. And you</p> <p>5 testified earlier that you've reviewed -- actually I don't</p> <p>6 know if I asked you this. You've reviewed Mr. Cooper's</p> <p>7 report in this case, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Could you look at Page 10 of Mr. Cooper's</p> <p>10 report. In Figure 4 Mr. Cooper presents --</p> <p>11 MS. ORMSBY: Dale, can I just -- is this from</p> <p>12 his initial report or --</p> <p>13 MR. HO: Yes. I apologize.</p> <p>14 MS. ORMSBY: I'm sorry to interrupt.</p> <p>15 Q. (By Mr. Ho) No, no, no. It's fine. This is</p> <p>16 his initial report in this case, not his rebuttal report.</p> <p>17 Page 10, Figure 4 has decennial census data concerning the</p> <p>18 voting age population in the Ferguson-Florissant school</p> <p>19 district from 1990 to 2010. Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Do you dispute the accuracy of what he's</p> <p>22 represented here; that these are the -- the last three</p> <p>23 decennial census figures for the voting age population in</p> <p>24 the Ferguson-Florissant school district?</p> <p>25 A. The question is whether I dispute that these</p>

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<p style="text-align: right;">Page 101</p> <p>1 are? No, I do not dispute.</p> <p>2 Q. Okay. So to be clear, you do not dispute that</p> <p>3 according to the 2010 decennial census, blacks are less</p> <p>4 than 50 percent of the voting age population of the</p> <p>5 Ferguson-Florissant school district, right?</p> <p>6 A. I do not dispute that.</p> <p>7 Q. And you do not dispute that, according to the</p> <p>8 2010 decennial census, whites outnumber blacks in terms of</p> <p>9 the voting age population of the Ferguson-Florissant</p> <p>10 school district, correct?</p> <p>11 A. By a very small amount, that is correct.</p> <p>12 Q. Could we look back at your report, Dr. Rodden,</p> <p>13 Exhibit 4, and could we look at Page 6 in your report,</p> <p>14 Figure 3. Figure 3 shows your presentation of your</p> <p>15 estimates of the voting age population within the</p> <p>16 Ferguson-Florissant school district from 2000 to 2015,</p> <p>17 correct?</p> <p>18 A. Correct.</p> <p>19 Q. And according to you, it is likely that blacks</p> <p>20 are now a majority of the voting age population in the</p> <p>21 Ferguson-Florissant school district, correct?</p> <p>22 A. That is correct.</p> <p>23 Q. And you define the term majority as more than</p> <p>24 half, right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 103</p> <p>1 Figure 3. The first observation comes from the 2000</p> <p>2 decennial census. For recent years I obtained three-year</p> <p>3 population estimates from the American Community Survey,</p> <p>4 which has now replaced the long-form census. These are</p> <p>5 placed on the graph at the position of the middle of the</p> <p>6 three years, but it must be stressed that these estimates</p> <p>7 are averages of responses over three years.</p> <p>8 Q. So --</p> <p>9 A. So these are three-year ACS that have been</p> <p>10 plotted, and to make things easier on the reader, I made a</p> <p>11 -- I just connected those -- those dots.</p> <p>12 Q. So to be clear, the 2000 -- the data for the</p> <p>13 year 2000, that's decennial census data?</p> <p>14 A. Yes.</p> <p>15 Q. Right. And then is there any other decennial</p> <p>16 census data that you used for purposes of this graph?</p> <p>17 A. In this graph, no.</p> <p>18 Q. Okay. And you used ACS data through which</p> <p>19 year after 2000? So starting with 2001 --</p> <p>20 A. I used -- I used all of the three-year ACS</p> <p>21 estimates that were available.</p> <p>22 Q. Up until?</p> <p>23 A. Until the most recent one, which is the</p> <p>24 2011-2013 ACS.</p> <p>25 Q. So you used that to generate data for the</p>
<p style="text-align: right;">Page 102</p> <p>1 Q. So 50 percent plus one would be a majority?</p> <p>2 A. Correct.</p> <p>3 Q. And that's different from a plurality, right?</p> <p>4 A group can be a plurality without being a majority?</p> <p>5 A. That is correct. It's already, according to</p> <p>6 the 2013 ACS, a plurality. But this is -- I do use the</p> <p>7 word majority on occasion, and that is -- and that comes</p> <p>8 from the continuation of the trend.</p> <p>9 Q. Right. So I want to ask about the data</p> <p>10 sources that you used to generate this graph. Am I</p> <p>11 correct that you have three different forms of data that</p> <p>12 are presented in this graph, decennial census data, ACS</p> <p>13 data, and your own linear projections based on the ACS?</p> <p>14 A. That is correct.</p> <p>15 Q. Can you tell me which years for which you're</p> <p>16 presenting data you're using decennial census data?</p> <p>17 A. Yes. There is a decennial census data point</p> <p>18 at 2000. There is a decennial data point -- I'm sorry.</p> <p>19 Right. In this graph what I did is I started with the</p> <p>20 2000 decennial census, and then I use, in order to be</p> <p>21 consistent, especially to have that trend that flows from</p> <p>22 it, I then start using -- let me read the text to make</p> <p>23 sure I don't misspeak.</p> <p>24 Yes. I explain this in Footnote 1 in</p> <p>25 reference to Figure 1, and the same things are true about</p>	<p style="text-align: right;">Page 104</p> <p>1 midpoint year, right, 2012?</p> <p>2 A. I used -- on the graph, yes, I want to be</p> <p>3 clear about that. On the graph, the 2011 to 2013 ACS is</p> <p>4 represented as a dot -- well, there is no dot, it's just a</p> <p>5 line, at 2012.</p> <p>6 Q. Okay. So just to get this straight, 2001</p> <p>7 through 2012, your calculations for the voting age</p> <p>8 population of the Ferguson-Florissant school district,</p> <p>9 those are based on three-year ACS estimates, correct?</p> <p>10 A. For the purpose of consistency in the</p> <p>11 presentation of this graph, I wanted to use as much</p> <p>12 comparable data in the recent years as possible. I</p> <p>13 certainly could have put the 2010 decennial data point on</p> <p>14 the graph, but I chose not to because it would only -- it</p> <p>15 would be apples and oranges.</p> <p>16 Q. Yeah, I'm not questioning your choices.</p> <p>17 A. I understand. I'm trying to clarify what I</p> <p>18 have done here.</p> <p>19 Q. Yeah, yeah. I'm not questioning your choices</p> <p>20 at all. I'm actually just trying to clarify --</p> <p>21 A. Sure.</p> <p>22 Q. -- what is represented in each year.</p> <p>23 A. Sure.</p> <p>24 Q. And what I understand you to be saying is the</p> <p>25 2000 data for the voting age population of the</p>

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<p style="text-align: right;">Page 105</p> <p>1 Ferguson-Florissant school district is decennial census 2 data, correct? 3 A. Yes, uh-huh. 4 Q. And for each of the years 2001 through 2012, 5 you're presenting the voting age population for the 6 Ferguson-Florissant school district with three-year ACS 7 data, correct? 8 A. There are no three-year ACS estimates 9 available as far back as the first part of the decade, and 10 I don't, in my head right now, remember what was the first 11 one that was available. So there is a -- that first part 12 of the graph is a -- I mean you can see, when you look at 13 it, that it is a line that is connecting 2000 with 14 whatever the first year was that the three-year ACS 15 estimates were available, which looks like it would be a 16 midpoint year of 2008, I want to guess, just from looking 17 at the graph, but I could be wrong by a year. 18 Q. All right. 19 A. So just to be clear, the first big chunk of 20 that white line -- or the black line is a connection of 21 two dots that are pretty far apart. 22 Q. Okay. So 2000 is decennial census data, 23 there's a gap in the data, and somewhere around 2008 you 24 start presenting the voting age population of the 25 Ferguson-Florissant school district based on the ACS</p>	<p style="text-align: right;">Page 107</p> <p>1 but not your projection, is what you're presenting for the 2 voting age population of the Ferguson-Florissant school 3 district in 2012, correct? 4 A. Technically 2013 would be the answer. 2013 -- 5 data collected in 2013 would go into that data point that, 6 on the graph, appears as 2012. 7 Q. Right. But the data that you're presenting 8 from 2013 onward represents your linear projections -- 9 A. Yes. 10 Q. -- correct? Okay. Let's look at an exhibit. 11 I'll mark this as Rodden Exhibit 9. 12 (Whereupon, Rodden Deposition Exhibit No. 9 13 was marked for identification.) 14 Q. Now, this is a spreadsheet from an Excel file 15 that your counsel sent to us. I believe this corresponds 16 to what's presented in Figure 3. Does that look correct 17 to you, Dr. Rodden? 18 A. Yes. 19 Q. Okay. So for the year 2012, and this is where 20 you're presenting the midpoint -- it's the midpoint for 21 the three-year estimate of ACS 2011 to 2013, right? 22 A. Yes. 23 Q. Now, you are showing a white voting age 24 population, which I believe you can see on the first page 25 of this chart, of 23,740, correct?</p>
<p style="text-align: right;">Page 106</p> <p>1 estimates, correct? 2 A. Correct. 3 Q. Okay. And that goes up until 2000, the data 4 that you present for the voting age population of 5 Ferguson-Florissant in 2012, correct? 6 A. It's presented as 2012, but it is the period 7 that covers 11 to 13. 8 Q. Right. And when you start presenting data for 9 the population, the voting age population of the 10 Ferguson-Florissant school district after 2012, so 11 starting with the year 2013, you're presenting your linear 12 projections from the ACS data, correct? 13 A. Yes. 14 Q. Okay. So to be clear, in this graph the most 15 recent year for which you are presenting purely government 16 data, without any projections by you, is the voting age 17 population of the Ferguson-Florissant school district in 18 2012, correct? 19 A. No, it's the voting age population over the 20 period from 2011 to 13 as estimated from the sample that 21 the ACS collected during those years. It is presented in 22 the graph at 2012 because that seemed like a sensible way, 23 kind of for presentation purposes, to do it. 24 Q. Right. So the most recent year for which you 25 present data in the graph that is purely government data,</p>	<p style="text-align: right;">Page 108</p> <p>1 A. Yes. 2 Q. Could I ask you to just -- I'm going to give 3 you a sheet of paper and a pen. Could you write that 4 down? 5 A. (The witness complied.) 6 Q. And on this chart you're showing a black 7 voting age population in the Ferguson-Florissant school 8 district of 24,313; is that right? 9 A. Yes. 10 Q. Now, there are some people who are neither 11 white nor black living in the Ferguson-Florissant school 12 district, right? 13 A. Yes. 14 Q. I believe they are on the very last page of 15 your spreadsheet under the column Other, 18-plus; is that 16 right? 17 A. I need to take a closer look and make sure -- 18 Q. Sure. 19 A. -- how these are categorized here, so -- 20 Q. Sure. Take your time. 21 A. Yeah. I mean we can -- I can -- let's see 22 here. We're looking at the year 2000. It's hard to work 23 through the -- 24 Q. Yeah. 25 A. -- pages without seeing the lines.</p>

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<p style="text-align: right;">Page 109</p> <p>1 Q. We printed it out in the form that it was 2 given to us. 3 MS. ORMSBY: Excel sheets. 4 A. So this is -- we're talking about line one, 5 two, three, four, five -- line five, is that correct? 6 Q. Uh-huh. Under the headers, the fifth line 7 under the headers. 8 A. Right, right. 9 Q. What may be helpful, Dr. Rodden, is that you 10 have, you know, estimated numbers only for certain 11 columns, right? You have an estimated number for the 12 White 18-plus column, you have an estimated number for the 13 Black 18-plus column, and the only other column for which 14 you have an estimated number is the Other 18-plus, which 15 is on the back page. 16 A. Yes. I'm just -- 17 MS. ORMSBY: Turn one more. 18 A. Oh, there we are. Okay. So the question? I 19 think I understand what we're looking at now. 20 Q. Right. I'm trying to figure out where in this 21 chart we have the voting age population of people who 22 don't fall into either the white or the black category, 23 and based on what's here, it seems like that's the Other 24 18-plus column at the very end. Is that correct? 25 A. Yes. What I -- I just want to make sure</p>	<p style="text-align: right;">Page 111</p> <p>1 total up the voting age population of the 2 Ferguson-Florissant school district in 2012 using the ACS 3 data, the three-year ACS estimate? 4 A. 49,009. 5 Q. Okay. And what percentage of the voting age 6 population, according to the three-year ACS estimates, was 7 black in 2012? 8 A. 49.6. 9 Q. So that's less than a majority, right, which 10 we defined as 50 percent plus one? 11 A. That's correct. 12 Q. So according to the most recent data presented 13 in your graph, apart from your linear projections, 14 African-Americans are less than a majority of the voting 15 age population -- 16 A. No, single race African-Americans are less 17 than -- are 49.6 percent, single race African-Americans. 18 We know that there are a number of additional people in 19 the district who are reporting more than one race, and we 20 know that many of them, the vast majority of them, one of 21 the races is African-American. So it is correct that 22 according to this estimate, 49.6 percent of the voting age 23 population is single race African-American, but it is very 24 clear to any demographer who looks at these data that the 25 any part African-American population will be over 50</p>
<p style="text-align: right;">Page 110</p> <p>1 there's no confusion about what is included here in Other 2 18-plus. So not having the spreadsheet handy with the 3 formula in it, I would want to make sure that that 4 included -- my recollection is that this column includes 5 -- includes everyone else for whom a breakdown was 6 available, which would include Native-Americans, Asians 7 and people reporting more than one race. That is my 8 recollection of what's there. 9 Q. So in order to get the total voting age 10 population of the Ferguson-Florissant school district, we 11 need to add up the numbers in those three columns, the 12 White 18-plus, the Black 18-plus, and the Other 18-plus; 13 is that right? 14 A. This is where -- yes, in theory. The question 15 is whether everyone is here in 18-plus column, but I 16 believe -- let's assume that that's the case. 17 Q. So there may be more people, but not less; not 18 fewer, right, than what's in the Other 18-plus? 19 A. I don't know, but I -- let's assume that this 20 includes everyone who's in that category. 21 Q. Okay. So can you record that you have 956 22 people in the corresponding year, which I believe is for 23 2012, right, in the Other voting age population. 24 A. Right. 25 Q. And I'll hand you a calculator. Could you</p>	<p style="text-align: right;">Page 112</p> <p>1 percent. 2 Q. Okay. But that's not presented here, right? 3 A. No, that was -- 4 Q. I'm just asking about what's in your initial 5 report. 6 A. That was just -- this is just a graph meant to 7 visually -- to give the reader a visual sense of the 8 population trend. 9 Q. Okay. Based on the data presented here, 10 individuals who are single race African-American are less 11 than a majority of the voting age population of the 12 Ferguson-Florissant school district as of 2012, correct? 13 A. The as of 2012 part is hard, as we -- for 14 reasons we discussed, that this is a summary of one year 15 information that is collected every year from 2011 to 16 2013, but that's just a small -- 17 Q. And you're using that three-year estimate from 18 2011 to 2013 to produce an estimate from the ACS of the 19 voting age population of the Ferguson-Florissant school 20 district in 2012, correct, Dr. Rodden? 21 A. It is graphed as 2012 for visual purposes. I 22 do not mean to represent it as the information for 2012. 23 In fact, a single year 2012, one-year estimates are 24 available, but I didn't use one-year estimates, I used 25 three-year estimates.</p>

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<p style="text-align: right;">Page 113</p> <p>1 Q. You used three-year estimates from 2011 to</p> <p>2 2013 --</p> <p>3 A. Right.</p> <p>4 Q. -- to generate information for this graph?</p> <p>5 A. Yes.</p> <p>6 Q. For the voting age population of the</p> <p>7 Ferguson-Florissant school district for 2012, correct?</p> <p>8 A. For the graph, 2012.</p> <p>9 Q. Right. And for purposes of that graph in your</p> <p>10 report, individuals who are single member African-American</p> <p>11 -- single member race African-American are less than a</p> <p>12 majority of the voting age population in the</p> <p>13 Ferguson-Florissant school district in 2012, correct?</p> <p>14 A. That is correct.</p> <p>15 Q. Now, subsequent to 2012, you present</p> <p>16 projections, starting in 2013, of the voting age</p> <p>17 population in the Ferguson-Florissant school district,</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And those are linear projections based on the</p> <p>21 previous trends, Dr. Rodden?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Now, if you're looking at Page 6 in</p> <p>24 your report, the graph that shows population trends in the</p> <p>25 Ferguson-Florissant school district, the slopes of those</p>	<p style="text-align: right;">Page 115</p> <p>1 for whites. African-American population in the district</p> <p>2 has been increasing at a -- when we look visually at it,</p> <p>3 we see that the rate of decrease over a long period of</p> <p>4 time is much greater for whites. The rate of increase for</p> <p>5 African-Americans is -- it's more stable in the long run,</p> <p>6 so if I had to guess what would be the more -- the larger</p> <p>7 impact of the events of last summer, I would be -- it</p> <p>8 would surprise me if it led a lot of African-Americans to</p> <p>9 leave the school district, especially since the -- a lot</p> <p>10 of the violence and protests did not occur within the</p> <p>11 school district, they took place outside the school</p> <p>12 district. But if there was any impact on the population,</p> <p>13 I would expect that the rate of decrease in the white</p> <p>14 population probably increased.</p> <p>15 Q. And as you said, that's a guess, right?</p> <p>16 A. That is a guess.</p> <p>17 Q. You don't have --</p> <p>18 A. I have no idea.</p> <p>19 Q. You have no idea one way or the other, right?</p> <p>20 A. That's right.</p> <p>21 Q. Okay. Now, we established earlier that the</p> <p>22 ACS data has confidence intervals or error margins</p> <p>23 associated with it, correct?</p> <p>24 A. Yes.</p> <p>25 Q. You don't report those confidence intervals or</p>
<p style="text-align: right;">Page 114</p> <p>1 lines change from time to time, right?</p> <p>2 A. Yes. There is a single -- there's a single</p> <p>3 point that bumps upwards in mid year 2010.</p> <p>4 Q. I mean if you did a linear projection starting</p> <p>5 in the year 2005, that might look different from one</p> <p>6 starting in 2012, right?</p> <p>7 A. Sure. If there's a little bit of a</p> <p>8 discontinuity, then you're going to get slightly different</p> <p>9 results depending on what years you choose.</p> <p>10 Q. And do you know -- sorry. Let me start that</p> <p>11 again. Events can change the rate of these trends; you</p> <p>12 would agree with that, right, Dr. Rodden?</p> <p>13 A. Sure.</p> <p>14 Q. And you don't know if any events since 2013</p> <p>15 may have changed these trends, do you?</p> <p>16 A. I don't know.</p> <p>17 Q. You don't know, for instance, the controversy</p> <p>18 over the shooting of Michael Brown may have made the</p> <p>19 Ferguson-Florissant area less attractive to incoming black</p> <p>20 residents, do you?</p> <p>21 A. If I had to guess, I would guess that the rate</p> <p>22 of white exodus has increased. You will notice --</p> <p>23 Q. But you don't have any data on that?</p> <p>24 A. You will notice that the trend line for</p> <p>25 African-Americans is not nearly as steep as the trend line</p>	<p style="text-align: right;">Page 116</p> <p>1 error margins here, did you?</p> <p>2 A. No.</p> <p>3 Q. And your projections, because they're based on</p> <p>4 the ACS data, would also have confidence intervals</p> <p>5 associated with it, wouldn't they?</p> <p>6 A. Yes.</p> <p>7 Q. And you don't present the confidence intervals</p> <p>8 for your projections of the population of the</p> <p>9 Ferguson-Florissant school district, correct, Dr. Rodden?</p> <p>10 A. No, I don't.</p> <p>11 Q. We established earlier that it's pretty</p> <p>12 standard practice in political science research in peer</p> <p>13 review to present confidence intervals, didn't we, Dr.</p> <p>14 Rodden?</p> <p>15 A. Yes.</p> <p>16 Q. Now, we established earlier than when</p> <p>17 jurisdictions redistrict, they typically use decennial</p> <p>18 census data, right, Dr. Rodden?</p> <p>19 A. Correct.</p> <p>20 Q. Have you ever heard of a jurisdiction -- I</p> <p>21 mean and you have experience with redistricting based on</p> <p>22 your research, right?</p> <p>23 A. Yes.</p> <p>24 Q. And have you ever heard of a jurisdiction</p> <p>25 using ACS projections along the lines of what you've done</p>

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<p style="text-align: right;">Page 117</p> <p>1 here as a basis for redistricting?</p> <p>2 A. For redistricting, as I described earlier,</p> <p>3 it's impossible, because there are no data available at a</p> <p>4 sufficiently low level of aggregation to get the</p> <p>5 population counts that will fit within boundaries when</p> <p>6 blocks are being assembled together for redistricting</p> <p>7 purposes.</p> <p>8 Q. Could you take the decennial census data and</p> <p>9 build linear projections off of it in the same way that</p> <p>10 you've done with the ACS?</p> <p>11 A. Yes.</p> <p>12 Q. And you've never heard of a jurisdiction using</p> <p>13 linear projections from the decennial census data, which</p> <p>14 does have the level of detail necessary for redistricting,</p> <p>15 you've never heard of a jurisdiction using linear</p> <p>16 projections from the decennial census data for purposes of</p> <p>17 redistricting, have you?</p> <p>18 A. Whether a jurisdiction uses projections at the</p> <p>19 -- from like from 10 years earlier to the next 10 years</p> <p>20 and then projecting some population into the blocks? No,</p> <p>21 I've never heard of that.</p> <p>22 Q. Okay. I want to move to Page 18 of your</p> <p>23 report, the section with the header, "An Assessment of</p> <p>24 Race and Voting Behavior in Recent School Board</p> <p>25 Elections." This is a part of your report where you</p>	<p style="text-align: right;">Page 119</p> <p>1 Q. Let's look at Page 20 of your report, Figure</p> <p>2 7. Here, correct me if I'm wrong, but you are presenting</p> <p>3 an analysis of whether or not there's a correlation</p> <p>4 between the percent black voting age population of</p> <p>5 different precincts within the Ferguson-Florissant school</p> <p>6 district and the vote share received by black candidates</p> <p>7 in those precincts, correct?</p> <p>8 A. That is correct.</p> <p>9 Q. And you're presenting data from the years 2012</p> <p>10 through 2015, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And you found a positive correlation between</p> <p>13 African-American voting age population and</p> <p>14 African-American candidate share at precincts within the</p> <p>15 Ferguson-Florissant school district, correct?</p> <p>16 A. I do not report the correlation coefficient,</p> <p>17 but it is -- visually one can see that there is a -- a</p> <p>18 positive correlation in -- in each of these graphs.</p> <p>19 Q. And what that means, in layperson's terms, is</p> <p>20 that in all four elections that you looked at, 2012</p> <p>21 through 2015, as the black voting age population increases</p> <p>22 in a precinct, generally speaking so too does the vote</p> <p>23 share for black candidates, correct?</p> <p>24 A. That is correct.</p> <p>25 Q. On Page 21, Paragraph 39, the first sentence</p>
<p style="text-align: right;">Page 118</p> <p>1 describe your analysis of whether or not voting patterns</p> <p>2 in the Ferguson-Florissant school district are racially</p> <p>3 polarized, correct, broadly speaking?</p> <p>4 A. Yes.</p> <p>5 Q. And you would agree, wouldn't you, that when</p> <p>6 assessing whether voting is racially polarized, that</p> <p>7 recent elections are the most probative?</p> <p>8 A. I took that language from a court case and I</p> <p>9 believe the courts will view it that way, but again, I am</p> <p>10 not an expert on that.</p> <p>11 Q. As a social scientist, do you think that</p> <p>12 recent elections are the most probative in assessing</p> <p>13 whether voting is racially polarized?</p> <p>14 A. I think we can analyze any year we want to</p> <p>15 draw a conclusion about that year. I believe your</p> <p>16 question is for the purposes of voting rights case, what</p> <p>17 is the most useful information, and I would -- again, this</p> <p>18 is -- I don't want to put myself in the Court's shoes, but</p> <p>19 if I were the Court looking at this case, I would be more</p> <p>20 interested in the more recent elections, but I would not</p> <p>21 ignore -- I would find the information useful. I would</p> <p>22 like to get the big picture and know what has been</p> <p>23 happening over a long period of time and what the trends</p> <p>24 are. I would find that to be useful information, but this</p> <p>25 is up to the Court.</p>	<p style="text-align: right;">Page 120</p> <p>1 states, "Figure 7 reveals that both African-Americans and</p> <p>2 whites" -- sorry. Let me start that again. "Figure 7</p> <p>3 reveals that for both African-Americans and whites,</p> <p>4 significant crossover voting is the norm in</p> <p>5 Ferguson-Florissant School Board elections."</p> <p>6 First, what do you mean by crossover voting?</p> <p>7 A. I mean situations in which whites vote for</p> <p>8 African-American candidates and when African-Americans</p> <p>9 vote for white candidates.</p> <p>10 Q. Okay. And what do you mean by significant?</p> <p>11 A. I don't have a numerical threshold in mind.</p> <p>12 The way I think about whether crossover voting is</p> <p>13 significant here is with the bigger picture, where the</p> <p>14 whole goal of this analysis is to understand whether the</p> <p>15 electoral system, as it stands, prevents African-Americans</p> <p>16 from electing the candidates of their choice, and so we</p> <p>17 want to know about racially polarized voting in order to</p> <p>18 answer that question. And we want to know -- we need to</p> <p>19 know something about crossover voting as well to be able</p> <p>20 to answer that question, so --</p> <p>21 Q. Right. And when you say --</p> <p>22 A. -- crossover voting is significant if it -- if</p> <p>23 it would affect the ability of an African-American</p> <p>24 candidate of choice to be elected. As we try to</p> <p>25 understand the answer to that question, there are</p>

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<p style="text-align: right;">Page 121</p> <p>1 situations in which crossover voting is significant. So I</p> <p>2 don't have a numerical standard in mind that is a kind of</p> <p>3 a catchall universal standard for when we want to say that</p> <p>4 crossover voting is significant.</p> <p>5 Q. Dr. Rodden, the sentence that I asked you</p> <p>6 about was one where you state, "Figure 7 reveals that both</p> <p>7 African-Americans" -- "for both African-Americans and</p> <p>8 whites, significant crossover voting is the norm." So I</p> <p>9 want you to look at Figure 7 --</p> <p>10 A. Sure.</p> <p>11 Q. -- and tell me where Figure 7 explains or</p> <p>12 suggests that significant crossover voting is the norm and</p> <p>13 how you define that crossover voting --</p> <p>14 A. Yes.</p> <p>15 Q. -- as significant.</p> <p>16 A. In the year 2015 in the districts where -- in</p> <p>17 the precincts where the African-American share of voting</p> <p>18 age population is 80 percent, we see that the votes of</p> <p>19 African-American -- votes of African-American candidates</p> <p>20 is around 60 percent.</p> <p>21 If we go to the other side of the graph to</p> <p>22 places where African-American -- African-Americans make up</p> <p>23 20 percent of the population, we see that about half of</p> <p>24 the votes go to -- go to -- to African-American</p> <p>25 candidates. So this means that places that are 80 percent</p>	<p style="text-align: right;">Page 123</p> <p>1 There's an inferential problem here, right?</p> <p>2 A. Oh. Well, we're looking at -- I mean we're</p> <p>3 buying -- in the purpose of this graph we're buying into a</p> <p>4 precinct-level analysis, which is, of course, why we go on</p> <p>5 later to do the ecological inference. I agree that just</p> <p>6 looking at the aggregate data in this graph does not allow</p> <p>7 us -- we don't look at this graph and say that we can draw</p> <p>8 inferences necessarily about African-Americans and whites</p> <p>9 within precincts. That's why we do the ecological</p> <p>10 inference. However, this type of analysis is somewhat</p> <p>11 useful and it's also relied upon by the plaintiffs'</p> <p>12 experts in their homogenous precinct analysis which looks</p> <p>13 at places that are 20 and 80 percent.</p> <p>14 That's the kind of analysis I'm drawing upon</p> <p>15 here, and what we see is that in precincts that are</p> <p>16 overwhelmingly white, the African-American candidate</p> <p>17 receives half the vote. That is the essential inferential</p> <p>18 strategy of homogenous precinct analysis. I agree with</p> <p>19 your critique of it. I prefer ecological inference.</p> <p>20 Q. Now, you're referring -- when you say that --</p> <p>21 that reference was to the 2015 election, right? You're</p> <p>22 not making a reference to elections throughout time in the</p> <p>23 Ferguson-Florissant school district --</p> <p>24 A. I made -- I made reference to those in -- in</p> <p>25 answer to your question in looking at 2012 and 13. I did</p>
<p style="text-align: right;">Page 122</p> <p>1 white give half of their votes to African-American</p> <p>2 candidates, so that's one example.</p> <p>3 If we look at 2013, we see that the</p> <p>4 combination of Chuck Henson and Mr. Thomas, in places that</p> <p>5 had African-American voting age population shares of 80</p> <p>6 percent, we see that the combined vote shares of the</p> <p>7 African-American candidates were well less than half.</p> <p>8 In 2012 we see that when the voting age</p> <p>9 population is 80 percent African-American, we see that a</p> <p>10 little less than half of the votes go to African-American</p> <p>11 candidates. So I would say that there are substantial</p> <p>12 numbers of people, when you can find lots of examples just</p> <p>13 in the last four elections, in which something like half</p> <p>14 of the votes cast by a group are going to the members of</p> <p>15 the opposite group, then I would say there is significant</p> <p>16 crossover voting.</p> <p>17 Q. Well, just to take one example, you didn't say</p> <p>18 that half the members of a group were going to</p> <p>19 African-American candidates in 2015. What you said,</p> <p>20 correct me if I'm wrong, Dr. Rodden, is that in a precinct</p> <p>21 that is 80 percent white, about half of the votes go to</p> <p>22 black candidates. That's what you said, right?</p> <p>23 A. Yes.</p> <p>24 Q. And that's different from saying that half of</p> <p>25 white votes went to a black candidate, right, Dr. Rodden?</p>	<p style="text-align: right;">Page 124</p> <p>1 not make reference to 2014, because it's an outlier, as I</p> <p>2 mentioned.</p> <p>3 Q. Well --</p> <p>4 A. I agree that 2014 has very little crossover</p> <p>5 voting, although it does have some.</p> <p>6 Q. Well, Dr. Rodden, you cut me off, so I'll ask</p> <p>7 you to let me finish my question before you start</p> <p>8 answering, right? When you said that half of the votes in</p> <p>9 overwhelmingly white precincts go to black candidates,</p> <p>10 you're referring to the 2015 election, right? Because if</p> <p>11 you look at 2012, that is not the case for the precincts</p> <p>12 that are 80 percent white, correct, Dr. Rodden?</p> <p>13 A. That is correct.</p> <p>14 Q. Okay. So your statement that half of the</p> <p>15 votes go to black candidates in overwhelmingly white</p> <p>16 precincts was a reference to the 2015 election,</p> <p>17 specifically precincts that are 80 percent white, correct?</p> <p>18 A. Yes. You asked for an example and I provided</p> <p>19 that one.</p> <p>20 Q. Okay.</p> <p>21 A. I would point out that in 2013 in this</p> <p>22 graph -- if we would like to stay with this graph, we can,</p> <p>23 otherwise we can go to the ecological inference analysis,</p> <p>24 which I believe is probably a good thing to do. But in</p> <p>25 this graph we see that in overwhelmingly white precincts</p>

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<p style="text-align: right;">Page 125</p> <p>1 the combined vote share of Charles Henson and Mr. Thomas 2 was in the 30s.</p> <p>3 Q. Well, we'll talk about each election 4 specifically in a little bit more detail, Dr. Rodden, but 5 I just want to understand what this analysis is. Now, on 6 Page 23 in Paragraph 42 you explain that, "These aggregate 7 vote totals, according to the race of the candidates, mask 8 a good deal of important variation across candidates, and 9 indeed the Supreme Court in Gingles calls for a more 10 fine-grained analysis."</p> <p>11 Did I read that right?</p> <p>12 A. Yes.</p> <p>13 Q. So this is not a fine-grained analysis, 14 correct?</p> <p>15 A. That's correct.</p> <p>16 Q. And this is not the kind of fine-grained 17 analysis that the Supreme Court calls for in Gingles, 18 correct?</p> <p>19 A. Well, I have testified that I am not an expert 20 in case law. I do know that these correlations between -- 21 between -- the kinds of correlations displayed in Figure 7 22 are sometimes called upon, which is why I included them. 23 But I believe, indeed, that it's important to go on and do 24 the next step.</p> <p>25 Q. Okay. So let's look at Page 25, Figure 8 in</p>	<p style="text-align: right;">Page 127</p> <p>1 all others are viewed as the other, and I know that it's 2 perfectly possible to do the analysis both ways. I'm 3 quite confident that the results looked very similar both 4 ways. I believe I have done this, and I certainly would 5 be able to check and get you the answer if I had access to 6 my files. I believe that this analysis was done with a 7 strict comparison of African-American and whites, but I 8 need to check.</p> <p>9 Q. Okay. I want to mark two exhibits as Rodden 10 Exhibits 10 and 11.</p> <p>11 (Whereupon, Rodden Deposition Exhibits 10 and 12 11 were marked for identification.)</p> <p>13 Q. So 10 is what was produced to us by your 14 counsel. Exhibit 10 is what was produced to us by your 15 counsel when we asked for the underlying data for Figure 16 8. And could you just take a look at that and tell us, 17 does this look like the data that corresponds -- the 18 numerical data that corresponds to what you're presenting 19 visually in Figure 8?</p> <p>20 A. It does. It does indeed. I might like to ask 21 if we are going to stay for another 20 minutes, if I might 22 take a very quick bathroom break.</p> <p>23 Q. We could always just break for lunch now if 24 that makes sense.</p> <p>25 (A discussion was held off the record and a</p>
<p style="text-align: right;">Page 126</p> <p>1 your report. This presents your ecological inference 2 estimates for black and white support for each candidate 3 in elections going back to the 2000 election, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Now, I want to be clear as what's represented 6 here. When you say white support for a candidate or white 7 vote share for a candidate in Figure 8, you're referring 8 to white voters not non-black voters, correct? We 9 established there was this category of other? Dr. Rodden, 10 I'm trying to understand if other is included here.</p> <p>11 A. And I'm trying to -- I'm trying to remember 12 how exactly I dealt with this in the -- in the -- in this 13 version of the report, so I need to --</p> <p>14 Q. Sure. Take your time.</p> <p>15 A. -- take a moment. In the assembly of this 16 data set, as I hopefully have described, I used block 17 level data, and those data had information for whites and 18 for -- single race whites and single race 19 African-Americans. And I believe your question is whether 20 the -- whether the -- what was done with this category in 21 the decennial census data that doesn't fit into one of 22 those categories, and my recollection is that it was not 23 included in the -- under whites.</p> <p>24 I know that in some of these cases whites are 25 -- that the minority group is viewed as one group and then</p>	<p style="text-align: right;">Page 128</p> <p>1 lunch recess was taken from 12:38 to 1:45 P.M.)</p> <p>2 Q. Dr. Rodden, before the lunch break, we were 3 talking about what's been marked as Rodden Exhibit 10. 4 This is the Excel spreadsheet that corresponds to Figure 8 5 in your report, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And the third column on this spreadsheet has 8 the point estimates in numerical terms for black support 9 for each candidate in each election in the 10 Ferguson-Florissant school district mentioned in Figure 8, 11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And the fourth column has the point estimates 14 for white support for each candidate in each election in 15 the Ferguson-Florissant school district, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And what's been marked as Rodden 18 Exhibit 11 has been -- is the same spreadsheet, but 19 reformatted to be a little easier to read, but it has the 20 same data.</p> <p>21 A. Thank you. That's good.</p> <p>22 Q. Does that look correct to you?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. So I may ask you some questions from 25 time to time about the data in your report, and you can</p>

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<p style="text-align: right;">Page 129</p> <p>1 feel free to refer to either of these spreadsheets or</p> <p>2 Figure 8 in your report, whatever is easiest for you. Is</p> <p>3 that okay?</p> <p>4 A. Yes. I'm just making sure I understand</p> <p>5 everything here.</p> <p>6 Q. Sure. Just let me know when you're ready to</p> <p>7 proceed.</p> <p>8 A. So these colors have been included to separate</p> <p>9 different years?</p> <p>10 Q. Yes.</p> <p>11 A. Okay. Yes.</p> <p>12 Q. Now, correct me if I'm wrong, but in a</p> <p>13 two-seat election in the Ferguson-Florissant school</p> <p>14 district, every voter has up to two votes, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And in a three-seat election, every voter has</p> <p>17 up to three votes?</p> <p>18 A. Yes.</p> <p>19 Q. And voters can only vote for one candidate at</p> <p>20 a time, right, Dr. Rodden? It's not like you can give</p> <p>21 both of your votes to a single candidate, correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Okay. And you would agree that in a</p> <p>24 multimember election like this, under the rules that we</p> <p>25 have in the Ferguson-Florissant school district, there's a</p>	<p style="text-align: right;">Page 131</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And in these scenarios that we've just</p> <p>3 discussed -- well, let's just use the two-seat example</p> <p>4 where all voters use all their votes, and let's say a</p> <p>5 candidate gets 50 percent of the votes. That would mean</p> <p>6 that 100 percent of voters had cast a vote for that</p> <p>7 candidate, correct?</p> <p>8 A. The stipulations again in this hypothetical,</p> <p>9 just make sure I understand --</p> <p>10 Q. Oh, yeah. Sure. Two-seat election where</p> <p>11 every voter uses all of their votes, so there's no what I</p> <p>12 think you would call single-shot voting.</p> <p>13 A. Uh-huh.</p> <p>14 Q. Right? If a candidate receives 50 percent of</p> <p>15 the votes cast, that would mean that 100 percent of voters</p> <p>16 had voted for that candidate, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And so if we assume -- and again, this is a</p> <p>19 stipulation -- we assume there's no single-shot voting,</p> <p>20 one kind of rule of thumb we could apply, when we look at</p> <p>21 the percentage of votes received by a candidate in a</p> <p>22 two-seat election, we could basically double that number</p> <p>23 to get a sense for how many voters supported that</p> <p>24 candidate, again assuming no single-shot voting, right?</p> <p>25 A. If I was discussing a political jurisdiction</p>
<p style="text-align: right;">Page 130</p> <p>1 difference between the percentage of votes cast for a</p> <p>2 candidate and the percentage of voters who supported a</p> <p>3 candidate, correct?</p> <p>4 A. That is correct. We're looking at the</p> <p>5 percentage of votes cast here.</p> <p>6 Q. Right. If you were to assume -- and I know</p> <p>7 this isn't always the case, but if you were to assume that</p> <p>8 in a two-seat election every voter used both of their</p> <p>9 votes, the most votes that a candidate could receive, a</p> <p>10 single candidate could receive, would be 50 percent of the</p> <p>11 total votes, correct?</p> <p>12 A. From a particular racial group you're</p> <p>13 referring to right now, or --</p> <p>14 Q. From a particular racial group or from voters</p> <p>15 as a whole.</p> <p>16 A. That the most votes a candidate could receive</p> <p>17 as a share of the votes cast is 50 percent?</p> <p>18 Q. Assuming that everyone uses all of their</p> <p>19 votes.</p> <p>20 A. Oh, right. Assuming everyone uses all their</p> <p>21 votes, then that is correct.</p> <p>22 Q. And in a three-seat election, again assuming</p> <p>23 everyone uses all of their votes, the most votes that a</p> <p>24 candidate could get would be 33 percent of all votes cast,</p> <p>25 correct, 33.3?</p>	<p style="text-align: right;">Page 132</p> <p>1 in which single-shot voting was not allowed, then that</p> <p>2 would be something that would make sense.</p> <p>3 Q. And in a three-seat election, you could just</p> <p>4 triple the percentage of votes that a vote -- that a</p> <p>5 candidate got in order to get a ball-park of how many</p> <p>6 voters, what percentage of voters actually supported that</p> <p>7 candidate, again assuming no single-shot voting?</p> <p>8 A. That would also assume no spoiled ballots and</p> <p>9 so forth, but yes.</p> <p>10 Q. Okay. I want to look at -- and try to keep</p> <p>11 those spreadsheets kind of nearby, because we may refer to</p> <p>12 them from time to time, but I want to look at the 2000 --</p> <p>13 your discussion of the 2000 election on Page 33 of your</p> <p>14 report which is at Paragraph 68. Just let me know when</p> <p>15 you get there.</p> <p>16 A. I am there.</p> <p>17 Q. Okay. In this paragraph you identify two</p> <p>18 candidates as minority-preferred candidates, Gwen Thomas</p> <p>19 and Michael Hirsch; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And the reason you identify them as</p> <p>22 minority-preferred in the text of your report in Paragraph</p> <p>23 68 is because, if we look at your spreadsheet for the</p> <p>24 results of the 2000 election, Thomas and Hirsch have the</p> <p>25 highest point estimates for black voter support, correct?</p>

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<p style="text-align: right;">Page 133</p> <p>1 A. That is correct.</p> <p>2 Q. And throughout this section of your report you</p> <p>3 use the term minority-preferred, and generally speaking,</p> <p>4 am I right that when you use the term minority-preferred</p> <p>5 in this report, you're using it in the same way that you</p> <p>6 use it to describe the results of the 2000 election as</p> <p>7 those candidates with the highest point estimates for</p> <p>8 black support in that election?</p> <p>9 A. I need to clarify that I speak differently in</p> <p>10 different parts of the report, but I'm clear, I believe,</p> <p>11 about the -- about that fact. My approach to this is to</p> <p>12 try to aid the Court in understanding a complex question</p> <p>13 about how to think about minority-preferred candidates in</p> <p>14 a multi-seat system. So in this passage of the text that</p> <p>15 you're referring to of which -- of which Paragraph 68 is a</p> <p>16 part, indeed I take the top two point estimates among</p> <p>17 African-Americans and refer to them as minority-preferred</p> <p>18 candidates, which is, again, stipulating that I am not an</p> <p>19 expert in case law, but in the cases I have read, that has</p> <p>20 been the approach that's been used.</p> <p>21 However, I realize that that approach has a</p> <p>22 disadvantage, which is that in some cases, in some</p> <p>23 instances, voting among minorities, or for that matter</p> <p>24 among whites, would be sufficiently incohesive that it is</p> <p>25 -- that it may be within a small -- the third candidate,</p>	<p style="text-align: right;">Page 135</p> <p>1 A. Yes.</p> <p>2 Q. And when you say minority-preferred candidates</p> <p>3 in this sentence and for this number 14 out of 27, you are</p> <p>4 referring to the candidates with the highest point</p> <p>5 estimates of black support in each election, right?</p> <p>6 You're not using just the top vote-getter in each</p> <p>7 election?</p> <p>8 A. I'm sorry. In Paragraph 73 I state at the</p> <p>9 beginning that I am here applying the approach in which I</p> <p>10 only look at the top minority-preferred candidates, so the</p> <p>11 answer is no.</p> <p>12 Q. Well, I mean you're not just looking at the</p> <p>13 number one top minority-preferred candidate. If it's a</p> <p>14 two-seat election, you take the two candidates with the</p> <p>15 highest point estimates for black support, and in a</p> <p>16 three-seat election you take the three candidates with the</p> <p>17 highest point estimates for black support, correct?</p> <p>18 A. In Paragraph 73 that is incorrect.</p> <p>19 Q. The second sentence here reads, "Let us ignore</p> <p>20 the complexities of the overlapping confidence intervals</p> <p>21 for second and third candidates in Figure 8 and simply</p> <p>22 count up wins and losses of the candidates ranked by the</p> <p>23 ecological inference estimates among the top N candidates</p> <p>24 for African-American voters when there are N seats."</p> <p>25 A. I apologize. I only read the final sentence</p>
<p style="text-align: right;">Page 134</p> <p>1 say, in a two-seat race might be rather close to the</p> <p>2 second candidate. And so because of that, I also explore</p> <p>3 in -- a little bit later in the report, a different</p> <p>4 approach which says let's just think about the first</p> <p>5 candidate and let's call those minority-preferred</p> <p>6 candidates. And those are the two principled ways I could</p> <p>7 think of to characterize minority-preferred candidates,</p> <p>8 and so in this section I am -- I am adopting that first</p> <p>9 approach, but then I recognize some of the limitations of</p> <p>10 that approach, which is the reason why I then move into a</p> <p>11 discussion of an alternative approach.</p> <p>12 Q. Okay. For now I want to stick with that first</p> <p>13 approach.</p> <p>14 A. Okay.</p> <p>15 Q. Using the highest point estimates --</p> <p>16 A. Okay.</p> <p>17 Q. -- of support for candidates to determine</p> <p>18 whether or not the candidate is minority-preferred, but I</p> <p>19 want to talk about the other methods available later in</p> <p>20 the deposition today.</p> <p>21 On Page 35 of your report, Paragraph 73, in</p> <p>22 your last sentence I think you say that in contested</p> <p>23 elections, minority-preferred candidates win 14 out of 27</p> <p>24 seats. Is that an accurate representation of what you're</p> <p>25 asserting in that sentence?</p>	<p style="text-align: right;">Page 136</p> <p>1 and not the full paragraph. That is -- this is indeed the</p> <p>2 approach in which I count up the top two.</p> <p>3 Q. Okay.</p> <p>4 A. That is your first -- revise my initial</p> <p>5 answer. It is yes.</p> <p>6 Q. So when you say that 14 out of 27</p> <p>7 minority-preferred candidates have won in contested</p> <p>8 elections between 2000 and 2015, you're saying that the</p> <p>9 candidates with the highest point estimates of black</p> <p>10 support in those elections won 14 out of 27 times, and</p> <p>11 again, two candidates for two-seat elections, three</p> <p>12 candidates for three-seat elections, correct?</p> <p>13 A. That is correct.</p> <p>14 Q. Okay. I want to run through your election</p> <p>15 results in your chart. You can either use your chart or</p> <p>16 you can use Figure 8. You can use the spreadsheet, I</p> <p>17 mean, Rodden 11, or you can use Figure 8 in your report,</p> <p>18 and I want to look at the top-ranked candidates for both</p> <p>19 blacks and whites according to the point estimates in each</p> <p>20 election. Is that okay?</p> <p>21 A. Sure.</p> <p>22 Q. I want to give you something that I want to</p> <p>23 mark as Rodden Exhibit 12.</p> <p>24 (Whereupon, Rodden Deposition Exhibit No. 12</p> <p>25 was marked for identification.)</p>

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<p style="text-align: right;">Page 137</p> <p>1 MS. ORMSBY: Are these all the same?</p> <p>2 Q. Yes. So I want to use this chart to record</p> <p>3 the candidates for the highest point estimates for black</p> <p>4 and white support and then total up the number of those</p> <p>5 candidates who were successful, okay?</p> <p>6 A. Okay.</p> <p>7 Q. Great. So let's look at the 2000 election.</p> <p>8 Now, there were two seats in the 2000 election, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And am I correct that the two candidates with</p> <p>11 the highest point estimates for black support are Thomas</p> <p>12 and Hirsch?</p> <p>13 A. Yes.</p> <p>14 Q. Could you record their names in the chart.</p> <p>15 A. (The witness complied.)</p> <p>16 Q. And am I correct that both of them were</p> <p>17 elected?</p> <p>18 A. I don't recall.</p> <p>19 Q. Why don't you look at Page 33, Paragraph 68</p> <p>20 from your report. Both were elected, right, Professor</p> <p>21 Rodden?</p> <p>22 A. Thomas and Hirsch?</p> <p>23 Q. Yes.</p> <p>24 A. Okay, both elected, yes.</p> <p>25 Q. Okay. Can you write the number two in the</p>	<p style="text-align: right;">Page 139</p> <p>1 your report, it looks like Garofalo was elected, but not</p> <p>2 Butler. Is that right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Could we record the number.</p> <p>5 A. (The witness complied.)</p> <p>6 Q. And the two candidates with the highest levels</p> <p>7 of white support in 2001 were Garofalo and Hogshead; is</p> <p>8 that right?</p> <p>9 A. Yes.</p> <p>10 Q. And could we record that both were successful?</p> <p>11 A. (The witness complied.)</p> <p>12 Q. And let's look at the 2002 election now.</p> <p>13 There were three seats up for election in this year,</p> <p>14 right?</p> <p>15 A. Yes.</p> <p>16 Q. And according to your point estimates, the</p> <p>17 candidates with the highest levels of black support were</p> <p>18 Graham, Butler and Clark; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. And Graham and Clark were elected that year,</p> <p>21 right, but not Butler?</p> <p>22 A. I believe that's correct.</p> <p>23 Q. Okay. Could you record that number.</p> <p>24 A. Two.</p> <p>25 Q. Two. And according to your spreadsheet, the</p>
<p style="text-align: right;">Page 138</p> <p>1 next column to represent the two minority-preferred</p> <p>2 candidates defined the way that we've defined it as those</p> <p>3 with the highest point estimates for black support --</p> <p>4 A. Uh-huh.</p> <p>5 Q. -- were successful? And I believe, according</p> <p>6 to your chart, these same two candidates were the -- had</p> <p>7 the highest point estimates for white support, just in the</p> <p>8 reverse order, Hirsch first and then Thomas; is that</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. Could you record that in the chart.</p> <p>12 A. (The witness complied.)</p> <p>13 Q. And both were successful, so could you record</p> <p>14 that as well.</p> <p>15 A. Yes.</p> <p>16 Q. Great. Let's look at the 2001 election.</p> <p>17 There were two seats up in this election, correct?</p> <p>18 A. I believe so.</p> <p>19 Q. And Butler and Garofalo were the candidates</p> <p>20 with the highest estimates of black support, according to</p> <p>21 you, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Could you record that.</p> <p>24 A. (The witness complied.)</p> <p>25 Q. And if we look at Page 33, Paragraph 67 of</p>	<p style="text-align: right;">Page 140</p> <p>1 candidates with the highest estimated levels of white</p> <p>2 support were Fletcher, Knorr -- I'm pronouncing it Knorr,</p> <p>3 it's spelled K-n-o-r-r -- and Clark, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And of those three, Fletcher and Clark were</p> <p>6 elected; is that right? You could look at Paragraph 66.</p> <p>7 A. That sounds -- yeah, I believe that's right,</p> <p>8 too. So two.</p> <p>9 Q. Okay. Great. Let's look at 2003. The</p> <p>10 candidates with the highest estimated levels -- sorry.</p> <p>11 The candidates that you estimate had the highest levels of</p> <p>12 black support were Thomas and Knorr; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. And both were elected?</p> <p>15 A. Yes.</p> <p>16 Q. And the candidates that you estimate with the</p> <p>17 highest levels of white support were Knorr and Lentz,</p> <p>18 L-e-n-t-z, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And of those two, Knorr was elected, but not</p> <p>21 Lentz, correct?</p> <p>22 A. Yes.</p> <p>23 Q. In 2004 there were two seats, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And the two candidates that you estimate as</p>

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<p>1 having the highest level of black support are Van and 2 McClendon, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And neither were successful, correct? I'm 5 looking at Paragraph 64 in your report if you want to 6 confirm that.</p> <p>7 A. Okay.</p> <p>8 Q. That's a yes, neither were elected?</p> <p>9 A. Right. Yes.</p> <p>10 Q. In 2004 the two candidates with the highest 11 estimated levels of white support were Garofalo and 12 Hogshead; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. And both were elected, correct?</p> <p>15 A. Yes.</p> <p>16 Q. The 2006 election, that's the next contested 17 election, and according to your estimates, the two 18 candidates with the highest levels of black support were 19 Thomas and Washington; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. And if you look at Paragraph 63 of your 22 report, neither of those two were elected, correct?</p> <p>23 A. That's correct.</p> <p>24 Q. Okay. The two candidates in 2006 that you 25 estimate as having the highest levels of white support</p>	<p>1 candidates with the highest levels of black support, I 2 believe, were Graham, Hawkins and Clark; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. And if we look at Paragraph 61 of your 5 report -- I'm sorry. If we look at Paragraph 59 of your 6 report, we see that zero of those three candidates with 7 the highest -- that you estimate as having the highest 8 levels of black support were successful; is that correct?</p> <p>9 A. That's right.</p> <p>10 Q. In 2011 the candidates that you estimate as 11 having the highest levels of white support are Martinez, 12 Morris, and I think I'm going to pronounce this correctly, 13 but someone should tell me if I'm wrong, Chabot.</p> <p>14 MS. ORMSBY: Chabot.</p> <p>15 Q. Chabot, spelled C-h-a-b-o-t.</p> <p>16 MS. ORMSBY: Can I ask that you clarify which 17 Morris, because there's two Morris'es that run.</p> <p>18 Q. I think this is P. Morris.</p> <p>19 MS. ORMSBY: You're correct. Just want it to 20 be clear.</p> <p>21 A. Yes.</p> <p>22 Q. It's Martinez, Morris and Chabot as the 23 highest estimated white support?</p> <p>24 A. Yes.</p> <p>25 Q. And if you look at Paragraph 59 in your</p>
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<p>1 were Schroeder and Knowles, correct? Knowles is spelled 2 K-n-o-w-l-e-s.</p> <p>3 A. Yes.</p> <p>4 Q. And both were elected, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. The next election I want to look at is 7 2009. There were two seats in this election, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And the two candidates that you estimate as 10 having the highest levels of black support were Knowles 11 and Schroeder?</p> <p>12 A. Yes.</p> <p>13 Q. And both were elected?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And the two candidates that you 16 estimate as having the highest levels of white support 17 were Schroeder and Knowles, correct?</p> <p>18 A. Yes.</p> <p>19 Q. In that order. And they were both elected, 20 right?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. 2011, there were three seats up in this 23 election, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And according to your spreadsheets, the</p>	<p>1 report, it appears that all three of them were elected, 2 correct?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. 2012, the two candidates that you 5 estimate as having the highest levels of white support are 6 B. Morris and Schroeder; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. And if you're looking at paragraph --</p> <p>9 MS. ORMSBY: You said white support. Did you 10 mean --</p> <p>11 MR. HO: Oh, did I say white? I apologize.</p> <p>12 MS. ORMSBY: Yeah.</p> <p>13 Q. I meant black support. The two candidates 14 that you estimate as having the highest levels of black 15 support are B. Morris and Schroeder; is that right?</p> <p>16 A. Yes.</p> <p>17 Q. And if you look at Paragraph 57 of -- thank 18 you for that, Cindy.</p> <p>19 MS. ORMSBY: Uh-huh.</p> <p>20 Q. If you look at Paragraph 57, it appears that 21 Schroeder was successful, but B. Morris was not; is that 22 correct?</p> <p>23 A. I believe so.</p> <p>24 Q. Okay. So one minority-preferred candidate was 25 elected that year, using the point estimates to define the</p>

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<p style="text-align: right;">Page 145</p> <p>1 minority-preferred; is that right?</p> <p>2 A. Yes.</p> <p>3 Q. And if we look at the candidates that you</p> <p>4 estimate as having the highest levels of white support,</p> <p>5 they are Ebert and Schroeder, in that order; is that</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. And both were elected?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And if we look at 2013 -- excuse me --</p> <p>11 the candidates that you estimate as having the highest</p> <p>12 levels of black support in 2013 are Henson and Hogshead,</p> <p>13 in that order; is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. And of those two, Hogshead was elected only,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. And the two candidates that you estimate as</p> <p>19 having the highest levels of white support were Hogshead</p> <p>20 and Brown, in that order; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. And if we're looking at Paragraph 55 in your</p> <p>23 report, we can see that both of the two white-preferred</p> <p>24 candidates, as defined by the point estimates, were</p> <p>25 successful, correct?</p>	<p style="text-align: right;">Page 147</p> <p>1 for election this year, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And the two candidates that you estimate as</p> <p>4 having the highest levels of black support were Graves and</p> <p>5 Dameron; is that right?</p> <p>6 A. Yes.</p> <p>7 Q. And of those two, one minority-preferred</p> <p>8 candidate, again defining that term as those candidates</p> <p>9 with the highest point estimates for black support, was</p> <p>10 elected, correct?</p> <p>11 A. Correct.</p> <p>12 Q. And the two candidates with the highest</p> <p>13 estimated levels, according to you, of white support were</p> <p>14 Ebert and Graves; is that right?</p> <p>15 A. Yes. Let me just check.</p> <p>16 Q. Sure.</p> <p>17 A. Yes.</p> <p>18 Q. And both were elected; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Now, overall here, there's a total of</p> <p>21 12 contested elections between 2000 and 2015, right?</p> <p>22 A. Yes.</p> <p>23 Q. And a total of 27 seats that were up for</p> <p>24 election all together in those 12 contests?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 146</p> <p>1 A. Yes.</p> <p>2 Q. And if we look at 2014, this is an election</p> <p>3 with three seats, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And the three candidates with the highest</p> <p>6 levels of black support you estimate -- as estimated by</p> <p>7 you are Paulette-Thurman, Johnson, and Savala; is that</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Could you record that.</p> <p>11 A. Yes.</p> <p>12 Q. And of these three candidates that you</p> <p>13 estimate having the -- as having the highest levels of</p> <p>14 support amongst black voters, only one was elected; is</p> <p>15 that correct?</p> <p>16 A. That is correct.</p> <p>17 Q. And the three candidates that you estimate as</p> <p>18 having the highest levels of white support are Chabot, P.</p> <p>19 Morris and Benz; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. And two of three of those white-preferred</p> <p>22 candidates, as we're defining that term for purposes of</p> <p>23 this exercise, were elected, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And the 2015 election, there were two seats up</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. Okay. And just so that the record is clear,</p> <p>2 this exhibit, Exhibit 12, lists those candidates that you</p> <p>3 estimate as having the highest levels of black support and</p> <p>4 the highest levels of white support, two candidates for</p> <p>5 two-seat elections, three candidates for three-seat</p> <p>6 elections --</p> <p>7 A. Yes.</p> <p>8 Q. Correct?</p> <p>9 A. Yes.</p> <p>10 Q. And it lists the number of black-preferred</p> <p>11 candidates defined as those candidates with the highest</p> <p>12 point estimates of black support. It lists the number of</p> <p>13 those candidates that were elected in each election,</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. And it does the same thing for white</p> <p>17 candidates, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Using that definition of</p> <p>20 minority-preferred as those candidates with the highest</p> <p>21 point estimates of support amongst black voters, how many</p> <p>22 black-preferred candidates have been elected since 2000?</p> <p>23 A. Looks like 13.</p> <p>24 Q. 13. Could you record that.</p> <p>25 A. I did.</p>

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<p style="text-align: right;">Page 149</p> <p>1 Q. Great. Now, in your report you said that 14</p> <p>2 out of 27 minority-preferred candidates had been elected</p> <p>3 since -- defining minority-preferred as those candidates</p> <p>4 with the highest estimates of black support, we went over</p> <p>5 that, right, Professor Rodden?</p> <p>6 A. Yes. It's clear I must have made a mistake.</p> <p>7 Q. Okay. So when you say that 14 out of 27</p> <p>8 minority-preferred candidates were elected in your report,</p> <p>9 that's incorrect?</p> <p>10 A. That should be altered to 13.</p> <p>11 Q. Okay. In fact, 14 out of 27 black-preferred</p> <p>12 candidates were not successful in the contested elections</p> <p>13 from 2000 to 2015; is that correct?</p> <p>14 A. That is correct.</p> <p>15 Q. Okay. And again, we're using this definition</p> <p>16 of black-preferred or minority-preferred as those</p> <p>17 candidates with the highest estimates -- point estimates</p> <p>18 of black voter support. What's the percentage -- and I'm</p> <p>19 providing you with a calculator here. What is the</p> <p>20 percentage of black-preferred candidates who have been</p> <p>21 successful in contested elections from 2000 to 2015?</p> <p>22 A. 48 percent.</p> <p>23 Q. And so it's fair to say that using this</p> <p>24 definition of minority-preferred candidates, that is those</p> <p>25 candidates with the highest point estimates for black</p>	<p style="text-align: right;">Page 151</p> <p>1 years worth of elections. I count, and you can tell me if</p> <p>2 I got this wrong, I count there as being, if we go back to</p> <p>3 the 2006 election, 16 available seats in contested</p> <p>4 elections from 2006 through 2015?</p> <p>5 A. What was your number again?</p> <p>6 Q. 16.</p> <p>7 A. In the last 10 years I count one, two, three</p> <p>8 four, five, six.</p> <p>9 Q. You count --</p> <p>10 A. Six elections have been held in the last 10</p> <p>11 years that were contested. The rest were uncontested.</p> <p>12 Q. Oh, right. I meant the number of seats in</p> <p>13 those six elections.</p> <p>14 A. Okay.</p> <p>15 Q. I have 16 seats in those six elections.</p> <p>16 A. So we're agreeing that by years, you mean</p> <p>17 years, not election --</p> <p>18 Q. Yes.</p> <p>19 A. -- contested elections?</p> <p>20 Q. Yes. I'm going back to the year 2006.</p> <p>21 A. Beginning with.</p> <p>22 Q. Starting with 2006. Sorry if that wasn't</p> <p>23 clear.</p> <p>24 A. You would like to apply a periodization that</p> <p>25 begins in 2006?</p>
<p style="text-align: right;">Page 150</p> <p>1 voter support, a majority of black-preferred candidates</p> <p>2 did not prevail in contested elections between 2000 and</p> <p>3 2015, correct?</p> <p>4 A. A very slim majority, yes.</p> <p>5 Q. Now, let's do the same numbers for</p> <p>6 white-preferred candidates. Can you tell me how many</p> <p>7 white-preferred candidates were elected in the contested</p> <p>8 -- or won office in the contested elections in the</p> <p>9 Ferguson-Florissant school district from 2000 to 2015?</p> <p>10 A. Looks like 24.</p> <p>11 Q. So 24 out of 27 white-preferred candidates, as</p> <p>12 we're defining that term for purposes of this exercise,</p> <p>13 were successful, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And fair to say essentially that using this</p> <p>16 definition of white-preferred candidates, that</p> <p>17 white-preferred candidates almost always win in the</p> <p>18 Ferguson-Florissant school district?</p> <p>19 A. It's -- it is fair to say that the number here</p> <p>20 is 89 percent with this approach.</p> <p>21 Q. Right. That's about 40 percentage points</p> <p>22 higher than the success rate for black-preferred</p> <p>23 candidates; is that correct?</p> <p>24 A. Yes.</p> <p>25 Q. I want to do the same exercise for the last 10</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. Yes.</p> <p>2 A. That is, you have selected that as a cut point</p> <p>3 for a line on this chart that you would like me to fill</p> <p>4 in? Just want to understand what we're doing here.</p> <p>5 Q. Yeah. We just did the, you know, last 15</p> <p>6 years.</p> <p>7 A. So we're going to do one, two, three, four,</p> <p>8 five, six -- the last seven elections, last seven</p> <p>9 contested elections?</p> <p>10 Q. Yes, because there were seven contested</p> <p>11 elections in the previous decade --</p> <p>12 A. Yes.</p> <p>13 Q. -- in the Ferguson-Florissant school district;</p> <p>14 you agree with that, right?</p> <p>15 A. I -- yes. If we want to throw out all of the</p> <p>16 elections in which candidates did not receive challengers,</p> <p>17 then that's correct.</p> <p>18 Q. Okay.</p> <p>19 A. So you want to know how many seats?</p> <p>20 Q. Uh-huh.</p> <p>21 A. 16.</p> <p>22 Q. Okay. Good. So the chart is correct here</p> <p>23 when it says 16?</p> <p>24 A. Oh, I see. Yes.</p> <p>25 Q. Can we count how many black-preferred</p>

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<p style="text-align: right;">Page 153</p> <p>1 candidates, again using the same definition, those</p> <p>2 candidates with the highest point estimate of black</p> <p>3 support as you've calculated it, how many black-preferred</p> <p>4 candidates were successful starting from the 2006 election</p> <p>5 to the present?</p> <p>6 A. Six.</p> <p>7 Q. So six out of 16 black-preferred candidates</p> <p>8 were successful in the previous decade in the</p> <p>9 Ferguson-Florissant school district, again defining</p> <p>10 black-preferred as we have, and limiting our analysis to</p> <p>11 contested elections, correct, Dr. Rodden?</p> <p>12 A. Yes.</p> <p>13 Q. Can you tell me what success rate that is?</p> <p>14 A. 37.5 percent.</p> <p>15 Q. Okay. So it's lower if we look at the last 10</p> <p>16 years, the black-preferred candidate success rate is --</p> <p>17 A. I have -- I've looked at this and I have</p> <p>18 discovered that if you cut the periodization in exactly</p> <p>19 the way you have, you can produce a lower number. So you</p> <p>20 have selected the cut point that produces the lowest</p> <p>21 number, yes.</p> <p>22 Q. Well, we'll look at other cut points, Dr.</p> <p>23 Rodden, and you're welcome to propose some of your own,</p> <p>24 but it's a 15-year period, right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 155</p> <p>1 Q. So if we limit our analysis to the last 10</p> <p>2 years, the gap between white and black-preferred candidate</p> <p>3 success increases, correct, Dr. Rodden?</p> <p>4 A. Yes.</p> <p>5 Q. It's about 55 percentage points when we look</p> <p>6 at just the previous decade, correct?</p> <p>7 A. Sure.</p> <p>8 Q. Okay. Now, let's do a different cut, because</p> <p>9 I know you objected to the one that I used, and let's just</p> <p>10 talk about the last five years, so let's start with the</p> <p>11 2011 election to present. Total of five elections over</p> <p>12 those five years, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And there were 12 seats up for election</p> <p>15 collectively when you combine those five elections?</p> <p>16 A. Yes.</p> <p>17 Q. And how many black-preferred candidates, as</p> <p>18 we're defining that term for purposes of this exercise?</p> <p>19 A. Four.</p> <p>20 Q. So four out of 12 black-preferred candidates,</p> <p>21 or 33 percent or so of black candidates were successful;</p> <p>22 is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. So if we look at the last five years instead</p> <p>25 of the last 10 years, the rate of black-preferred</p>
<p style="text-align: right;">Page 154</p> <p>1 Q. So I just want to do --</p> <p>2 A. You're free to cut it up however you like.</p> <p>3 Q. -- 15, 10 and five. We'll just do three,</p> <p>4 five-year chunks, if that's okay with you. So we did the</p> <p>5 whole 15 years, and if we now look at the most recent 10</p> <p>6 years, the last decade, and we look at the contested</p> <p>7 elections, six out of 16, or 37.5 percent of</p> <p>8 black-preferred candidates, as we're defining that term</p> <p>9 now, were successful, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And that's lower than if we look at the</p> <p>12 previous 15 years, correct?</p> <p>13 A. That is correct.</p> <p>14 Q. Okay. And can you tell me how many</p> <p>15 white-preferred candidates were successful in the last</p> <p>16 decade in contested elections starting with 2006 to the</p> <p>17 present?</p> <p>18 A. 15.</p> <p>19 Q. So 15 out of 16 white-preferred candidates</p> <p>20 have been successful in the last decade of contested</p> <p>21 elections in the Ferguson-Florissant school district,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. And that's about a 93 percent success rate?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 156</p> <p>1 candidate success is actually lower, correct, Dr. Rodden?</p> <p>2 A. Yes.</p> <p>3 Q. Now, if we look at white candidates,</p> <p>4 white-preferred candidates over the last 12 years, how</p> <p>5 many were successful -- sorry -- over the last five years?</p> <p>6 A. 11.</p> <p>7 Q. So 11 out of 12 white-preferred candidates</p> <p>8 were successful in the previous five years, correct?</p> <p>9 A. Correct.</p> <p>10 Q. And that's about a 91 percent success rate; is</p> <p>11 that correct?</p> <p>12 A. Yes.</p> <p>13 Q. So the gap in terms of success rate for white</p> <p>14 and black-preferred candidates, if you're just looking at</p> <p>15 the last five years, is about 60 percentage points; is</p> <p>16 that correct?</p> <p>17 A. Yes.</p> <p>18 Q. Now, I know you mentioned earlier that you --</p> <p>19 well, I'm sorry. Let me -- so let's leave this aside.</p> <p>20 We'll talk about this issue from a different angle for a</p> <p>21 second. Now, we established earlier, looking at Figure 8</p> <p>22 in your report, that the lines extending from the dots are</p> <p>23 the confidence intervals, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And the numerical values for those confidence</p>

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<p style="text-align: right;">Page 157</p> <p>1 intervals, they appear on this spreadsheet that we were 2 using before, correct? 3 A. Yes. 4 Q. So if we look at Rodden Exhibit 11, and the 5 fifth and seventh columns give us the upper and lower 6 bounds of the confidence intervals for black support for 7 each candidate; is that correct? 8 A. Yes. 9 Q. And the sixth and eighth columns give us the 10 upper and lower bounds of the confidence interval for 11 white support for each candidate in each election; is that 12 correct? 13 A. Uh-huh. 14 Q. And we established earlier what those 15 confidence intervals mean; that you know to a 95 degree -- 16 sorry -- 95 percent degree of certainty that the support 17 for a candidate from a particular racial group lies within 18 that confidence interval, correct, Dr. Rodden? 19 A. Yes. 20 Q. And that's the standard of certitude that you 21 would use in peer review publication. I know you said 22 there's some discussion about that now, but that's what's 23 generally accepted within the field of political science? 24 A. Yes. 25 Q. Now, I want to talk about the results of the</p>	<p style="text-align: right;">Page 159</p> <p>1 African-American, correct? 2 A. Yes. 3 Q. And given what you've seen here, these 4 statistics, would you describe her as a black-preferred 5 candidate? 6 A. Yes. 7 Q. Now, you mentioned the other candidates. 8 Let's talk about the candidate with the second highest 9 estimate of black support, Dameron. Now, you estimate 10 that she got 14 percent of all votes cast by 11 African-Americans, right? 12 A. Yes. 13 Q. And that's much less than the 49 percent that 14 you estimate for Dr. Graves, correct? 15 A. Yes, it's lower. 16 Q. It's about one-third, would you say? 17 A. Yes. 18 Q. And the upper bound for Dameron's estimated 19 support from black voters is lower than the lower bound 20 for Dr. Graves' estimate of support among black voters; is 21 that correct? 22 A. That is correct. 23 Q. So it's fair to say that we know with 24 statistical certainty or sufficient statistical certainty 25 to say that black voters voted for Graves at a higher rate</p>
<p style="text-align: right;">Page 158</p> <p>1 2015 election. I believe at some point you mentioned that 2 the 2015 election involved a candidate suggesting that 3 voters employ a single-shot approach to voting, Ms. Graves 4 or Dr. Graves, I can't remember now if she has a doctorate 5 -- Dr. Graves may have encouraged some voters to vote for 6 her and for no other candidates; is that right? 7 A. Yes. 8 Q. Okay. And according to your point estimates 9 here, she got about 49 percent of all votes cast by black 10 voters; that's your estimate, correct? 11 A. Yes. 12 Q. And I believe you describe this in your report 13 as strong support from African-Americans, and specifically 14 I'm looking at Page 26, Paragraph 47, the last sentence. 15 A. Yes. 16 Q. Is it fair to call that strong support that 17 she received cohesive support? 18 A. African-Americans behaved cohesively with 19 respect to Dr. Graves. 20 Q. Okay. 21 A. But African-American support for the remaining 22 candidates was split almost evenly between Dameron, Ebert, 23 Hines and Person. 24 Q. Okay. I want to get to that in a second, but 25 let's stick with Dr. Graves for a moment. Dr. Graves is</p>	<p style="text-align: right;">Page 160</p> <p>1 than they voted for Dameron, correct? 2 A. Yes. 3 Q. Okay. Now, I want to look at Page 27 of your 4 report and the first three sentences on this page. You 5 write, "African-Americans lacked cohesiveness to an extent 6 that it is difficult to identify a clear second 7 minority-preferred candidate. The black dots are 8 clustered together and their confidence intervals overlap. 9 The estimates suggest that African-American support was 10 slightly higher for Dameron, who is white, than Mr. Hines, 11 who is African-American, but the difference is not 12 statistically significant." 13 Did I read that correctly? 14 A. Yes. 15 Q. So I just want to understand what you're 16 saying here. You're saying that the confidence intervals 17 of support among black voters for Dameron overlap 18 substantially with Hines? Is that one of the things 19 you're -- I mean is that implicit in what you're saying 20 here? 21 A. I'm saying that the point estimate in this 22 case cannot -- is not statistically distinguishable from 23 -- between Dameron and Hines. 24 Q. And in fact, it's not statistically 25 distinguishable from Ebert and Person either, is it? The</p>

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<p style="text-align: right;">Page 161</p> <p>1 point estimate for black support for Dameron lies within</p> <p>2 the confidence intervals for all of those candidates,</p> <p>3 doesn't it?</p> <p>4 A. The current question again? Does Dameron's</p> <p>5 point estimate lie within the confidence intervals --</p> <p>6 Q. For Person, Hines and Ebert?</p> <p>7 A. Let me check. Dameron's point estimate is not</p> <p>8 within Ebert's confidence interval.</p> <p>9 Q. Oh, I'm sorry. But it is within the</p> <p>10 confidence interval for Hines and Person; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. So -- and we established earlier what it means</p> <p>13 when a point estimate for one value lies within a</p> <p>14 confidence interval for another value. It means you can't</p> <p>15 statistically distinguish between them?</p> <p>16 A. Yes. The report is -- makes that statement in</p> <p>17 Paragraph 48.</p> <p>18 Q. So we don't know, as a statistical matter,</p> <p>19 whether Dameron got more black support in 2015 than either</p> <p>20 Hines or Person; is that correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Okay. Fair to say that African-Americans were</p> <p>23 not cohesive behind a second choice in this election?</p> <p>24 A. That's correct.</p> <p>25 Q. And it's difficult to identify a second</p>	<p style="text-align: right;">Page 163</p> <p>1 across all elections. What I would not find principled</p> <p>2 and would not find useful would be to only examine the</p> <p>3 cases in which there were -- there was a clear convergence</p> <p>4 on one candidate, because in these elections sometimes the</p> <p>5 votes are split among several candidates and sometimes</p> <p>6 they converge on one or two, and the -- and each of those</p> <p>7 types of elections has very different properties.</p> <p>8 Q. Right. I see what you're saying. So let's</p> <p>9 try to walk through these elections just a little bit more</p> <p>10 closely and let's just see what we can agree about with</p> <p>11 respect to who's minority-preferred and who's not, and</p> <p>12 who's white-preferred and who's not, given some of these</p> <p>13 difficulties that you've identified. And if we can't come</p> <p>14 to any consensus on those things, that's fine, but I just</p> <p>15 want to see if we can. Is that okay?</p> <p>16 A. If the task at hand is to identify a -- is to</p> <p>17 come up with a new standard during this process, I don't</p> <p>18 anticipate that I will agree to a single standard. I</p> <p>19 believe I've made clear what two options are that I find</p> <p>20 useful.</p> <p>21 Q. Okay. Well, let's just walk through this and</p> <p>22 just see what we can come up with, and maybe we can't come</p> <p>23 to any kind of consensus on anything. I want to mark</p> <p>24 another table as Rodden Exhibit 12.</p> <p>25 COURT REPORTER: 13.</p>
<p style="text-align: right;">Page 162</p> <p>1 minority-preferred candidate because of that lack of</p> <p>2 cohesiveness in the 2015 election, correct?</p> <p>3 A. That's correct.</p> <p>4 Q. Okay. So we know -- I believe your testimony</p> <p>5 earlier, you described Dr. Graves as a black-preferred</p> <p>6 candidate?</p> <p>7 A. Yes.</p> <p>8 Q. But we just don't know whether or not there's</p> <p>9 a second black-preferred candidate in this election, or</p> <p>10 maybe we don't know -- we think there isn't a second</p> <p>11 black-preferred candidate in this election. I just want</p> <p>12 your opinion as a political scientist here. Is there a</p> <p>13 second black-preferred candidate in this election?</p> <p>14 A. The concept of a preferred candidate, as I</p> <p>15 described earlier, is one that, in a multi-winner system,</p> <p>16 creates exactly the complexities you're pointing out, and</p> <p>17 I was very clear about those complexities.</p> <p>18 I believe the report is very clear about the</p> <p>19 difficulty -- the difficult analytical choice one has in</p> <p>20 trying to identify more than one preferred candidate in</p> <p>21 exactly a situation like 2015. So I think it is, as I</p> <p>22 described, there were two approaches that seemed</p> <p>23 principled, and the one that I felt handled effectively</p> <p>24 exactly the dilemma that you are pointing to was to</p> <p>25 examine only the top -- the top candidate and do that</p>	<p style="text-align: right;">Page 164</p> <p>1 Q. I'm sorry, 13. We already did 12.</p> <p>2 (Whereupon, Rodden Deposition Exhibit No. 13</p> <p>3 was marked for identification.)</p> <p>4 Q. So the 2015 election had two seats in it,</p> <p>5 right, Dr. Rodden?</p> <p>6 A. Yes.</p> <p>7 Q. And we established that you agreed that Dr.</p> <p>8 Graves is a minority-preferred candidate in 2015, correct?</p> <p>9 A. Yes.</p> <p>10 Q. So let's record Dr. Graves here. And I</p> <p>11 believe you said that African-American voters weren't</p> <p>12 cohesive behind a second choice; is that right?</p> <p>13 A. That's correct.</p> <p>14 Q. So can we write that there was one preferred</p> <p>15 candidate in this election? Would you agree to that?</p> <p>16 A. I don't agree to the approach that's being</p> <p>17 taken. I will write down on the paper what you ask me to</p> <p>18 write, but I don't believe that throwing out all of the</p> <p>19 candidates in every situation, when African-Americans are</p> <p>20 incohesive in their voting behavior, is an analytically</p> <p>21 appropriate choice. I object to that approach. It does</p> <p>22 not -- is not an appropriate approach to the data, but I</p> <p>23 will write down the number if that's what you like.</p> <p>24 Q. You agree that Dameron is not -- that black</p> <p>25 voters were not cohesive behind Dameron, even though she</p>

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<p style="text-align: right;">Page 165</p> <p>1 had the second highest point estimate for black support, 2 according to you, correct?</p> <p>3 A. Yes.</p> <p>4 Q. So you don't agree that Dameron is not a 5 minority-preferred candidate?</p> <p>6 A. It's a double negative there. Can you -- what 7 was the question?</p> <p>8 Q. Do you agree that Dameron is not a 9 minority-preferred candidate?</p> <p>10 A. I've already stated my approach, and I believe 11 we might end up at an impasse here; that if we look at the 12 point estimates and we adopt that approach, then she would 13 be -- that Dameron would be identified as a 14 minority-preferred candidate, so --</p> <p>15 Q. But you agree that as a statistical matter, we 16 don't know --</p> <p>17 A. I understand.</p> <p>18 Q. -- if Dameron has more support from black 19 voters than Hines and Person, correct?</p> <p>20 A. Which is why I identified a second approach to 21 the matter, which is to examine only the top seats. That 22 is a principled approach to the question at hand. 23 Throwing out -- I mean if we are about to go through a 24 process of filling in this sheet and if we will spend the 25 next half an hour doing that, I'm happy to do it, but I am</p>	<p style="text-align: right;">Page 167</p> <p>1 who's minority-preferred and who's not than just using the 2 point estimates when you have significant confidence 3 intervals.</p> <p>4 I guess what I'm saying is this. I profer to 5 you that if Dameron had a statistically significant level 6 of support that was higher than Hines and Person, we might 7 appropriately describe her as black-preferred, even if 8 Graves got a lot more votes than Dameron. But under the 9 facts that we have here where Dameron's support was very 10 low and it's statistically -- in comparison to Graves and 11 it's statistically indistinguishable from two other 12 candidates, perhaps it's appropriate to call Graves the 13 candidate of choice and to simply say there is no second 14 candidate of choice, given these facts. Do you disagree 15 with that statement, Dr. Rodden?</p> <p>16 A. No.</p> <p>17 Q. Okay. So let's try this, and if, you know, at 18 the end of the day you just don't agree with what -- I'm 19 not going to ask you to write something in here that you 20 don't agree with, okay? But if you agree that Graves is a 21 candidate of choice and that there are no other candidates 22 of choice for African-Americans in 2015, then I would ask 23 you to write Graves and one underneath the column for 24 preferred candidates. Would you do that?</p> <p>25 A. Sure.</p>
<p style="text-align: right;">Page 166</p> <p>1 just registering, ahead of time, my objection to the 2 approach, but we can certainly do it. It does not make 3 sense to take out all of the elections in which there was 4 a vote split among several candidates, throw them out, not 5 consider them at all, only focus on elections in which 6 there is convergence on one candidate of choice.</p> <p>7 Q. Well, I don't think that's what I was 8 suggesting. I was just simply suggesting that you agree 9 that Graves is a candidate of choice, there's cohesive 10 support amongst blacks for Graves, correct?</p> <p>11 A. Yes.</p> <p>12 Q. But there isn't cohesive support around 13 Dameron. And we, in fact, don't even know if Dameron got 14 more black votes than Hines or Person, correct, Dr. 15 Rodden?</p> <p>16 A. That's correct.</p> <p>17 Q. So what I was suggesting is, given those 18 facts, it's fair to say we know there's one 19 minority-preferred candidate here, and that was Graves. 20 That's what I'm asking if would you agree to. Would you 21 agree to that?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Because I'm not saying we should throw 24 away all results where, you know, in elections where 25 there's a split. I'm just trying to get a closer look at</p>	<p style="text-align: right;">Page 168</p> <p>1 Q. And Graves was successful, right?</p> <p>2 A. Yes.</p> <p>3 Q. So we can say one out of one black-preferred 4 candidates were successful in 2015, using the definitions 5 that I'm employing here; is that fair?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So I want to talk about white-preferred 8 candidates here, right? Ebert has the highest level of 9 support amongst white voters; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. And Ebert's level of support falls outside of 12 the confidence intervals for white support for all of the 13 other candidates, correct?</p> <p>14 A. It's easier to look at the graph. Yes.</p> <p>15 Q. So we know that there's a statistically 16 significant difference between white support for Ebert as 17 opposed to all other candidates, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Would you say that white voters are cohesive 20 behind Ebert?</p> <p>21 A. I would say that white votes were cohesive 22 for Ebert and relatively -- they were less cohesive for 23 the remainder of the candidates.</p> <p>24 Q. So I think you have about 40.1 percent 25 estimated support, white support for Ebert here. Would</p>

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<p style="text-align: right;">Page 169</p> <p>1 you say, given what we've discussed, that he's a</p> <p>2 white-preferred candidate?</p> <p>3 A. Yes.</p> <p>4 Q. Would you record that on the chart.</p> <p>5 A. (The witness complied.)</p> <p>6 Q. Now, I think you estimate the next highest</p> <p>7 level of white support as going to Dr. Graves at about</p> <p>8 22.9 percent, if I'm rounding; is that right? I'm looking</p> <p>9 at your spreadsheet.</p> <p>10 A. Okay. Sure.</p> <p>11 Q. And the point estimate that you have here for</p> <p>12 Graves in terms of white support, it falls within the</p> <p>13 confidence interval of what you've estimated in terms of</p> <p>14 white support for Hines; is that correct?</p> <p>15 A. That's correct.</p> <p>16 Q. Given that fact, would you say that we can't</p> <p>17 tell, with a degree of statistical certainty, as to</p> <p>18 whether Graves or Hines received a higher level of white</p> <p>19 support?</p> <p>20 A. It is very close, and if we altered the -- if</p> <p>21 we had a slightly different confidence interval, we would</p> <p>22 get a different result, but that is correct.</p> <p>23 Q. Would you then say that white voters were not</p> <p>24 cohesive with respect to a second choice in this election?</p> <p>25 A. This one is -- this one is very close, so it's</p>	<p style="text-align: right;">Page 171</p> <p>1 2:50 P.M.)</p> <p>2 Q. Dr. Rodden, I just want to ask you a few more</p> <p>3 questions about the 2015 election. In Paragraph 48 you</p> <p>4 note that Dr. Graves ran a sophisticated campaign in which</p> <p>5 she very explicitly encouraged her supporters to engage in</p> <p>6 a single-shot voting strategy and cast a single vote for</p> <p>7 her, foregoing the use of their second vote. What do you</p> <p>8 mean when you say that a single-shot strategy is</p> <p>9 sophisticated?</p> <p>10 A. I don't believe I said that the single-shot</p> <p>11 voting strategy was a sophisticated strategy. I believe I</p> <p>12 said that Ms. Graves ran a sophisticated campaign.</p> <p>13 Q. Okay. In your view, are sophisticated</p> <p>14 campaigns like the ones that Dr. Graves ran, are those</p> <p>15 common in the Ferguson-Florissant school district?</p> <p>16 A. I don't know. I have very little insight into</p> <p>17 the campaign strategies of candidates in the past.</p> <p>18 Q. Are you aware of other candidates in the</p> <p>19 Ferguson-Florissant school district encouraging a</p> <p>20 single-shot voting strategy?</p> <p>21 A. I believe it is done rather frequently.</p> <p>22 Q. Can you name another candidate in the</p> <p>23 Ferguson-Florissant school district who has employed or</p> <p>24 encouraged the single-shot strategy?</p> <p>25 A. Well, one of them is sitting at the table.</p>
<p style="text-align: right;">Page 170</p> <p>1 on the edge, but if I had to -- if I had to make this</p> <p>2 concept of cohesiveness for the second candidate binary,</p> <p>3 which is what you are asking me to do, then I would --</p> <p>4 then that's how I would have to come down.</p> <p>5 Q. You would come down and say that white voters</p> <p>6 were not cohesive behind a second choice here?</p> <p>7 A. If cohesiveness must be a binary category,</p> <p>8 which for the purposes of filling out this chart it</p> <p>9 apparently must be, then I would agree with that.</p> <p>10 Q. Okay. So if you don't mind then, I think if</p> <p>11 there's no cohesive support -- I'm sorry. If whites are</p> <p>12 not cohesive behind a second candidate, for purposes of</p> <p>13 this chart, I think it makes sense to say that there's one</p> <p>14 white-preferred candidate, Ebert, and that that candidate</p> <p>15 was successful. And you've already filled it in, okay.</p> <p>16 A. So it looks like we have maybe a half an hour</p> <p>17 ahead of us here, and I really have to use the restroom.</p> <p>18 Q. Sure.</p> <p>19 A. I know usually you don't ask that during the</p> <p>20 middle of a line of questioning.</p> <p>21 Q. No, no. I didn't pose a question to you, so</p> <p>22 now is a perfect time to use the restroom if you like.</p> <p>23 A. Okay. Thank you.</p> <p>24 Q. Of course.</p> <p>25 (Whereupon, a recess was taken from 2:43 to</p>	<p style="text-align: right;">Page 172</p> <p>1 One of the attorneys was on the Ferguson-Florissant School</p> <p>2 Board and ran for election and encouraged people to use a</p> <p>3 single-shot voting strategy in her case. That was through</p> <p>4 personal communication. I do note that Charles Henson's</p> <p>5 supporters encouraged a single-shot voting strategy in</p> <p>6 that election. Those are just some ones -- that's just</p> <p>7 some that I know about. I did not research this. These</p> <p>8 are things that came to my attention.</p> <p>9 Q. Are there any other candidates in the 2000</p> <p>10 through 2015 elections other than Dr. Graves and Mr.</p> <p>11 Henson that you're aware of who encouraged a single-shot</p> <p>12 voting strategy?</p> <p>13 A. If they are smart, they all would have, but I</p> <p>14 don't know -- I have not had a chance to ask them. This</p> <p>15 is not something I've been able to do, so I don't know and</p> <p>16 I don't have a full sample of all of their campaign</p> <p>17 materials, so I don't know.</p> <p>18 Q. You don't know one way or the other whether or</p> <p>19 not single-shot voting is an unusual circumstance, or the</p> <p>20 encouragement of single-shot voting is an unusual</p> <p>21 circumstance in Ferguson-Florissant school district</p> <p>22 elections?</p> <p>23 A. I do not, but I don't have reason to believe</p> <p>24 that it's unusual.</p> <p>25 Q. But you just don't know one way or the other?</p>

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<p style="text-align: right;">Page 173</p> <p>1 A. That's correct.</p> <p>2 Q. Let's talk about the 2000 election. Do you</p> <p>3 have any reason to think that single-shot voting was</p> <p>4 encouraged as a strategy in the 2000 election in the same</p> <p>5 way that it was in the 2015 election?</p> <p>6 A. I'm sorry. Which election?</p> <p>7 Q. 2000, which is described in Paragraph 68 of</p> <p>8 your report.</p> <p>9 A. I do not have information about -- I just have</p> <p>10 no special information about strategies used there.</p> <p>11 Q. Okay. Now, we established -- well, I don't</p> <p>12 know if we established it, but when we looked at your</p> <p>13 spreadsheets, Rodden Exhibit 11, for the 2000 election the</p> <p>14 candidate with the highest estimated level of black</p> <p>15 support as estimated by you is Thomas with about 34</p> <p>16 percent of black votes; is that correct?</p> <p>17 A. So you said 2011?</p> <p>18 Q. 2000.</p> <p>19 A. Oh, we're back at 2000.</p> <p>20 Q. Yes. I just want to jump to the beginning.</p> <p>21 We did the end. Let's do the beginning.</p> <p>22 A. Yes. I'm sorry. You're asking me about the</p> <p>23 estimated African-American support --</p> <p>24 Q. Uh-huh.</p> <p>25 A. -- for Gwen Thomas?</p>	<p style="text-align: right;">Page 175</p> <p>1 A. Yes.</p> <p>2 Q. Now, the confidence interval for Hirsch's</p> <p>3 level of black support, the level of -- the point estimate</p> <p>4 for Smith's support falls within the confidence interval</p> <p>5 for Hirsch's level of black support, correct?</p> <p>6 A. Yes.</p> <p>7 Q. So as a statistical matter, we don't know</p> <p>8 whether or not Hirsch or Smith was the candidate who</p> <p>9 received the second most support from black voters,</p> <p>10 correct?</p> <p>11 A. Correct.</p> <p>12 Q. So knowing that, who do you think it's fair to</p> <p>13 describe as a black-preferred candidate in the 2000</p> <p>14 election?</p> <p>15 A. There are two approaches to this question.</p> <p>16 The first one just takes the top two point estimates. The</p> <p>17 second approach focuses on only the top vote recipient.</p> <p>18 Q. Couldn't a third approach, Dr. Rodden, be to</p> <p>19 take the candidates who have statistically significant</p> <p>20 higher levels of support, so in this case Thomas has a</p> <p>21 higher level of support, clearly, than the other</p> <p>22 candidates amongst black voters, and couldn't we use</p> <p>23 statistical significance as a decision rule here in</p> <p>24 assessing who's a black-preferred candidate of choice and</p> <p>25 say Thomas is a black-preferred candidate of choice, but I</p>
<p style="text-align: right;">Page 174</p> <p>1 Q. Uh-huh. About 34 percent?</p> <p>2 A. Yes.</p> <p>3 Q. And this is a three-seat -- wait a minute.</p> <p>4 A. No, I believe this was a two-seat.</p> <p>5 Q. Two-seat election, right. My apologies.</p> <p>6 Let's talk about the second candidate, or the candidate</p> <p>7 you estimate as having the second highest level of black</p> <p>8 support, Hirsch, at about 18.7 percent of black votes; is</p> <p>9 that right?</p> <p>10 A. Uh-huh. Yes.</p> <p>11 Q. Now, Thomas' support among black votes you</p> <p>12 estimate to be about 15 percentage points higher than</p> <p>13 Hirsch's, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And in this case that's almost double the</p> <p>16 level of support that Hirsch got from black voters; is</p> <p>17 that right?</p> <p>18 A. Yes.</p> <p>19 Q. Would you think it's fair to say that Thomas</p> <p>20 got substantially more votes among blacks than Hirsch?</p> <p>21 A. Yes.</p> <p>22 Q. Now, the candidate you estimate as having the</p> <p>23 third highest level of support among black voters was</p> <p>24 Smith at about 16.8 percent of black votes; is that</p> <p>25 correct?</p>	<p style="text-align: right;">Page 176</p> <p>1 can't really say if Hirsch or Smith are because their</p> <p>2 levels of support amongst black voters are statistically</p> <p>3 indistinguishable; wouldn't that be another objective</p> <p>4 decision rule that we could employ here?</p> <p>5 A. That decision rule would lead to the following</p> <p>6 silliness. If there were five elections in a row, and in</p> <p>7 four of those elections all the votes were split so that</p> <p>8 there were overlapping confidence intervals everywhere,</p> <p>9 and in the fifth election there was one very good</p> <p>10 candidate who ran away with the race among -- among one</p> <p>11 racial group and another candidate who did very well among</p> <p>12 another racial group, and one of them received one more</p> <p>13 vote than the other, then we would look at those five</p> <p>14 elections, we would throw out the first four and we would</p> <p>15 be focused only on that one election and we would say to</p> <p>16 the Court that this is a valid VRA case in which the</p> <p>17 preferred candidate of the minority always wins. That is</p> <p>18 the same logic that we would be engaging in if we were to</p> <p>19 adopt that approach to these first and second seats.</p> <p>20 Q. Well, in that case wouldn't we then just say</p> <p>21 that black voters weren't cohesive in the first four</p> <p>22 elections, and the fifth time they were cohesive and they</p> <p>23 elected a candidate? I mean wouldn't -- wouldn't that --</p> <p>24 isn't that what we would say under the VRA, Dr. Rodden?</p> <p>25 A. If we had -- if we had -- you can think of --</p>

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<p style="text-align: right;">Page 177</p> <p>1 the same kinds of examples can exist where the vote is</p> <p>2 both cohesive for a bare majority of the cases, so if</p> <p>3 there were five cases, we could have three where we barely</p> <p>4 said is was cohesive and we could still -- if we threw out</p> <p>5 those three -- I mean if we -- I'm sorry. If we only kept</p> <p>6 those three, then we could still end up telling the Court</p> <p>7 that there was -- that there was, based on a very small</p> <p>8 number of cases, we would end up telling the Court that</p> <p>9 there was -- that there was a situation in which the</p> <p>10 minority-preferred candidates usually lost.</p> <p>11 Q. So the reason you don't like using the</p> <p>12 statistical significance difference as a decision rule in</p> <p>13 terms of assessing whether or not there are</p> <p>14 minority-preferred candidates is because it gives you</p> <p>15 fewer cases to choose from, right? There are fewer -- the</p> <p>16 N gets lower so --</p> <p>17 A. No. There's an additional reason, which is</p> <p>18 that the type of election in which the votes are evenly</p> <p>19 split between -- between voters in one group and the type</p> <p>20 of election in which the votes for those voters are</p> <p>21 focused on one candidate can be very different types of</p> <p>22 elections. So if we decide that we don't care about all</p> <p>23 of the elections in which there are vote splits and we</p> <p>24 only focus on those elections in which there is a focus on</p> <p>25 one candidate, we're focusing on -- we're drawing</p>	<p style="text-align: right;">Page 179</p> <p>1 do that.</p> <p>2 And if we want to go through and apply that</p> <p>3 approach, we can do it and then the Court will have a more</p> <p>4 attractive piece of paper that lays out that approach. I</p> <p>5 don't believe that approach makes sense. It doesn't -- it</p> <p>6 doesn't -- it's not an approach that would be acceptable</p> <p>7 if submitted to a peer-reviewed journal. If I said we're</p> <p>8 going to drop all of the cases in which voting behavior is</p> <p>9 not cohesive and focus only on those in which it was and</p> <p>10 then draw inferences from that, that is not something that</p> <p>11 political scientists would accept.</p> <p>12 Q. Okay.</p> <p>13 A. So that's why I really do object to the</p> <p>14 exercise, but the information is there. If the Court</p> <p>15 decides that that is the right exercise, then the data are</p> <p>16 there to do it.</p> <p>17 Q. Okay. And just to be clear, you've never</p> <p>18 peer-reviewed any articles yourself that attempt to</p> <p>19 measure whether or not voting is racially polarized in a</p> <p>20 jurisdiction, have you?</p> <p>21 A. Not that I can recall.</p> <p>22 Q. Okay. And we established earlier you're not</p> <p>23 an expert on the legal requirements of the Voting Rights</p> <p>24 Act, correct?</p> <p>25 A. I've established that there are some aspects</p>
<p style="text-align: right;">Page 178</p> <p>1 inferences from two very different types of things.</p> <p>2 The Voting Rights Act, as I understand it,</p> <p>3 does not ask us to only analyze elections in which voting</p> <p>4 behavior is cohesive. That is not my understanding, but</p> <p>5 I'm willing to be -- I'm willing to be proven wrong. What</p> <p>6 I have tried to do in my --</p> <p>7 Q. Because you're not an expert on the legal</p> <p>8 requirements of the Voting Rights Act, right, Dr. Rodden?</p> <p>9 MS. ORMSBY: I'm going to ask you not to</p> <p>10 interrupt him, just like you've asked him not to interrupt</p> <p>11 you, okay? Can he finish his answer, please?</p> <p>12 Q. Sure.</p> <p>13 A. What I have done in my report --</p> <p>14 Q. Then you can answer my question.</p> <p>15 A. -- is I have provided the Court with the</p> <p>16 information that is required to do exactly what we're</p> <p>17 doing here, which is to try out different ideas for what a</p> <p>18 minority-preferred candidate is, so we can come up with,</p> <p>19 you know -- if the Court likes the idea that we should</p> <p>20 throw out all of these other cases, then -- and only look</p> <p>21 at the instances in which there was a -- there was a clear</p> <p>22 minority-preferred candidate and we throw out all the</p> <p>23 seats in which that wasn't the case, if that is what the</p> <p>24 Court decides is the right approach, then all the</p> <p>25 information is here in the spreadsheets for the Court to</p>	<p style="text-align: right;">Page 180</p> <p>1 of the legal requirements of the Voting Rights Act that I</p> <p>2 can read in plain text in the Gingles decision and in the</p> <p>3 senate report and in the legislation. There are some</p> <p>4 things there that I can understand. I've read a lot of</p> <p>5 other court cases. There's much that I understand. There</p> <p>6 are aspects of this that are contested, and those are the</p> <p>7 aspects of this which are for the Court to determine. I</p> <p>8 believe this is an area that is contested.</p> <p>9 I do not have a strong opinion about whether</p> <p>10 it would be better to just observe point estimates of the</p> <p>11 top two or whether it's better to only look at the top</p> <p>12 individual candidate, but I do not believe it makes sense</p> <p>13 to throw out, in a rather arbitrary way, much of the</p> <p>14 data -- many of the seats. I do not believe it makes</p> <p>15 sense to ignore many of the seats.</p> <p>16 Q. So when you look at just the top candidate in</p> <p>17 each election, you're throwing out many of the seats,</p> <p>18 right, Dr. Rodden?</p> <p>19 A. In a principled way.</p> <p>20 Q. Okay. And you don't think --</p> <p>21 A. In a way where the rules are clear.</p> <p>22 Q. And you don't think that saying I'm going to</p> <p>23 throw out the seats where there's no statistically</p> <p>24 significant difference in candidate support is a clear</p> <p>25 decision rule?</p>

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<p style="text-align: right;">Page 181</p> <p>1 A. It's a clear decision rule, but it's one that</p> <p>2 leads to -- leads to some potentially strange scenarios,</p> <p>3 as I described.</p> <p>4 Q. Okay. So let's talk about the two decision</p> <p>5 rules that you've proposed and whether or not they lead to</p> <p>6 any strange scenarios. Let's take point estimates as our</p> <p>7 decision rule. Well, take the two candidates with the</p> <p>8 high point estimates. Okay? Assume that all black</p> <p>9 voters, except for one, single-shot vote for a single</p> <p>10 candidate; you got that assumption? Is that clear to you?</p> <p>11 A. Say it again.</p> <p>12 Q. Assume that all black voters in the</p> <p>13 jurisdiction, except for one, single-shot vote for one --</p> <p>14 the same candidate; got that assumption?</p> <p>15 A. All African-American voters in a jurisdiction</p> <p>16 vote for one candidate out of how many?</p> <p>17 Q. Out of four, and they all vote for the same</p> <p>18 candidate, single-shot, except for one black voter.</p> <p>19 A. Uh-huh.</p> <p>20 Q. Is that clear? Okay. The one black voter who</p> <p>21 doesn't single-shot vote uses her second vote to vote for</p> <p>22 another candidate. Is that assumption clear?</p> <p>23 A. So there are 10 voters, say, and nine of them</p> <p>24 are single-shot voting for one candidate.</p> <p>25 Q. For candidate A.</p>	<p style="text-align: right;">Page 183</p> <p>1 Q. Now, if we just use the top minority</p> <p>2 vote-getter in an election, you can imagine a scenario</p> <p>3 where let's say a two-seat election, one candidate gets 50</p> <p>4 percent of black votes, another candidate gets 49 percent</p> <p>5 of black votes, call that -- those candidates A and B</p> <p>6 respectively. Under that scenario, if we use the decision</p> <p>7 rule of only the top minority vote-getter, candidate that</p> <p>8 gets the top minority votes, candidate A with 50 percent</p> <p>9 would be considered minority-preferred, but candidate B</p> <p>10 with 49 percent would not be considered</p> <p>11 minority-preferred, correct, Dr. Rodden?</p> <p>12 A. Yes. Each of these approaches has its</p> <p>13 disadvantages.</p> <p>14 Q. Right. So any approach that we employ here,</p> <p>15 in terms of assessing whether or not a candidate is</p> <p>16 minority-preferred, could have some disadvantages,</p> <p>17 correct?</p> <p>18 A. That is correct.</p> <p>19 Q. Okay. So what I want to use as the decision</p> <p>20 rule for what we're going to put in Exhibit 13 here, and I</p> <p>21 know you disagree with it and your caveat is on the</p> <p>22 record, so don't worry about that.</p> <p>23 A. Right.</p> <p>24 Q. I want to use a designation of</p> <p>25 minority-preferred candidate where we know that that</p>
<p style="text-align: right;">Page 182</p> <p>1 A. And voter number 10 --</p> <p>2 Q. Gives one vote to candidate A and then one</p> <p>3 vote to candidate B.</p> <p>4 A. Right. And so you're pointing out that in</p> <p>5 this very unusual scenario, this would -- this would</p> <p>6 create a situation in which there were two</p> <p>7 minority-preferred candidates.</p> <p>8 Q. Even though only one minority voter voted for</p> <p>9 candidate B, correct, Dr. Rodden?</p> <p>10 A. In that very unusual hypothetical situation,</p> <p>11 then that would be the case.</p> <p>12 Q. So you would agree then that if we just use</p> <p>13 the point estimates to assess who's a minority-preferred</p> <p>14 candidate, it can also lead to some strange results,</p> <p>15 correct, Dr. Rodden?</p> <p>16 A. Under some very hard to imagine hypotheticals.</p> <p>17 Q. Well, it can also result in strange results</p> <p>18 where you identify a candidate as minority-preferred even</p> <p>19 though you don't know, as a statistical matter, whether</p> <p>20 that candidate got more votes from minority voters than</p> <p>21 several other candidates, correct?</p> <p>22 A. I agree that that is the -- I've been clear in</p> <p>23 my report that that is the disadvantage --</p> <p>24 Q. Okay.</p> <p>25 A. -- of that approach.</p>	<p style="text-align: right;">Page 184</p> <p>1 candidate has a level of support that is statistically</p> <p>2 significantly different from other candidates such that we</p> <p>3 know that that candidate is one of the top two</p> <p>4 vote-getters in a two-seat election, or one of the top</p> <p>5 three vote-getters in a three-seat election.</p> <p>6 A. Yes, you want --</p> <p>7 MS. ORMSBY: Wait. I'm going to put an</p> <p>8 objection on the record that this seems to be an exercise</p> <p>9 in which counsel would like to get his testimony into the</p> <p>10 record by having Dr. Rodden fill out a chart specifically</p> <p>11 as you would like it to be filled out, and I want the</p> <p>12 record extremely clear that that is exactly what is</p> <p>13 happening here, and he can go ahead and do it, but it's</p> <p>14 your testimony, not his.</p> <p>15 MR. HO: Well, it's not my testimony. I'm</p> <p>16 asking him if we can put information into this chart using</p> <p>17 the decision rule that I know you object to, but using the</p> <p>18 decision rule identifying minority-preferred candidates</p> <p>19 based on statistical significance. Because what I want to</p> <p>20 know, as you put it, this chart could be cleaner than this</p> <p>21 chart -- I'm sorry -- Exhibit 13 could be cleaner than</p> <p>22 your own Excel spreadsheet in terms of identifying the</p> <p>23 candidates who have statistically significantly higher</p> <p>24 levels of support. Is that okay with you, Dr. Rodden?</p> <p>25 A. I am happy to write the numbers down on the</p>

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<p style="text-align: right;">Page 185</p> <p>1 piece of paper that you would like written down, because</p> <p>2 it's a deposition, you are asking the questions, and I</p> <p>3 will answer them.</p> <p>4 Q. Okay. And you understand what I'm asking for</p> <p>5 here, right; that I'm looking at or I'm asking for those</p> <p>6 candidates with statistically significantly higher levels</p> <p>7 of support than other candidates, such that we know for a</p> <p>8 fact in a two-seat election a candidate was one of the top</p> <p>9 two vote-getters amongst blacks, or in a three-seat</p> <p>10 election, was one of the top three vote-getters amongst</p> <p>11 black voters?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And I know you object to that decision</p> <p>14 rule, but --</p> <p>15 A. Right. We'll go for it.</p> <p>16 Q. Great. Just using your data here. So the</p> <p>17 2000 election, we know that Thomas was the highest</p> <p>18 vote-getter amongst blacks, correct?</p> <p>19 A. So we're starting from the beginning now?</p> <p>20 Q. Yes.</p> <p>21 A. We're in 2000?</p> <p>22 Q. Yes. Start with 2000.</p> <p>23 A. Yes.</p> <p>24 Q. And we know that the point estimate for</p> <p>25 Thomas' support lies outside of the confidence interval</p>	<p style="text-align: right;">Page 187</p> <p>1 favor. Hirsch is the top voter -- top candidate amongst</p> <p>2 white voters, according to your estimates, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. The second candidate that you estimate</p> <p>5 in terms of white support is Thomas, but Thomas' point</p> <p>6 estimate in terms of white support -- is it -- is it</p> <p>7 statistically significantly different from any other</p> <p>8 candidates?</p> <p>9 A. No.</p> <p>10 Q. Okay. So we can say, using this decision</p> <p>11 rule, that Hirsch and Thomas are preferred white</p> <p>12 candidates, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And so we could then say, using this</p> <p>15 decision rule, there are two white-preferred candidates,</p> <p>16 and I believe both were successful, correct?</p> <p>17 MS. ORMSBY: I'm sorry. I'm not following.</p> <p>18 Hirsch -- Thomas got 18 percent of the vote.</p> <p>19 Q. Uh-huh.</p> <p>20 MS. ORMSBY: Upper is -- for white is 23,</p> <p>21 lower is 14. 18 is between those two, so wouldn't Thomas</p> <p>22 not be a preferred?</p> <p>23 A. That's what we've agreed to, that Thomas is--</p> <p>24 MS. ORMSBY: He just said Hirsch and Thomas</p> <p>25 were preferred candidates of whites.</p>
<p style="text-align: right;">Page 186</p> <p>1 for the second highest estimated candidate for blacks, and</p> <p>2 that's Hirsch, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And Hirsch, the second highest</p> <p>5 estimated candidate for -- in terms of black support,</p> <p>6 Hirsch's point estimate lies within the confidence</p> <p>7 interval for the third candidate in terms of black</p> <p>8 support, Smith, correct?</p> <p>9 A. Yes.</p> <p>10 Q. So we don't know for a fact whether or not</p> <p>11 Hirsch or Smith was the number two candidate for black</p> <p>12 voters to any degree of statistical certainty, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. So now using the decision rule that</p> <p>15 I've asked you to adopt for purposes of filling out this</p> <p>16 sheet, and I know you object to it, but just using</p> <p>17 statistical significance to identify candidates of choice,</p> <p>18 Thomas was a candidate of choice and there is no second</p> <p>19 black candidate of choice, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. And Thomas was elected, so we can say</p> <p>22 that one out of one black-preferred candidates was</p> <p>23 successful in 2000, correct?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Let's look at white voters and who they</p>	<p style="text-align: right;">Page 188</p> <p>1 A. Oh. No. There's only one under this rule.</p> <p>2 Q. Oh, did I -- I'm sorry.</p> <p>3 A. We agreed that there is one preferred</p> <p>4 candidate. Verbally you agreed to that, there is one</p> <p>5 preferred candidate, just Hirsch.</p> <p>6 Q. Okay. I apologize. So using this decision</p> <p>7 rule of statistical significance, Hirsch is the lone</p> <p>8 white-preferred candidate in 2000 and Hirsch was elected,</p> <p>9 correct?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. Let's talk about 2001.</p> <p>12 MS. ORMSBY: So in 2000 you're saying that</p> <p>13 each race's preferred candidate was elected, correct?</p> <p>14 MR. HO: Are you asking me questions as a</p> <p>15 deponent, Cindy?</p> <p>16 MS. ORMSBY: I'm just trying to clarify the</p> <p>17 record that I wrote this down correctly.</p> <p>18 MR. HO: Yes. I have ones in each column.</p> <p>19 MS. ORMSBY: Thank you.</p> <p>20 Q. Okay. So 2001 -- now, before we look at the</p> <p>21 -- well, actually let's just go to the numbers. The top</p> <p>22 choice among black voters in 2001 is Butler with about</p> <p>23 40.5 percent of black votes; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. The second -- the next highest is Garofalo; is</p>

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<p style="text-align: right;">Page 189</p> <p>1 that right?</p> <p>2 A. Right.</p> <p>3 Q. And you estimate Garofalo is receiving about</p> <p>4 24.7 percent of black votes, correct?</p> <p>5 A. Yes.</p> <p>6 Q. That's a gap of about 16 percentage points</p> <p>7 between Butler and Garofalo in terms of estimated black</p> <p>8 support; is that right?</p> <p>9 A. There's -- there's no -- there's no black</p> <p>10 candidate of choice here.</p> <p>11 Q. Well, we'll get there.</p> <p>12 A. By your approach.</p> <p>13 Q. Yeah. Well, we'll get there in a second, but</p> <p>14 let's just -- I'm just comparing Butler and Garofalo here.</p> <p>15 A. So 2001 there is a blank for preferred</p> <p>16 candidate.</p> <p>17 Q. Wait. That wasn't my question. My question</p> <p>18 was comparing Butler and Garofalo's level of support.</p> <p>19 A. Indeed.</p> <p>20 Q. So by the point estimates, Butler got</p> <p>21 substantially more support amongst blacks than Garofalo,</p> <p>22 correct?</p> <p>23 A. But Garofalo's point estimate lies within</p> <p>24 Butler's confidence interval, so they're statistically</p> <p>25 indistinguishable, so it's a blank.</p>	<p style="text-align: right;">Page 191</p> <p>1 statistical certainty, was higher than Hogshead, right?</p> <p>2 A. Yes.</p> <p>3 Q. So we know that Butler was among the top two</p> <p>4 candidates for black voters, correct?</p> <p>5 A. I'm sorry. Are we adopting a new decision</p> <p>6 rule now?</p> <p>7 Q. No. The decision rule that I suggested before</p> <p>8 was we'll use statistical significance and the confidence</p> <p>9 intervals to try to determine whether or not in a two-seat</p> <p>10 election a candidate is among the top two for minority</p> <p>11 voters, to be labeled as minority-preferred, and in the</p> <p>12 top three in a three-seat election in order to understand</p> <p>13 that candidate as minority-preferred. That's the decision</p> <p>14 rule that I've proposed. And under that --</p> <p>15 A. I did not understand the decision rule, so --</p> <p>16 Q. Okay.</p> <p>17 A. So it is not about necessarily the difference</p> <p>18 between candidate number two and candidate number three.</p> <p>19 You are asking about in a three -- in a two-seat race --</p> <p>20 Q. Uh-huh.</p> <p>21 A. -- you would like to know whether the</p> <p>22 top-ranked candidate is among the top two?</p> <p>23 Q. To a degree of statistical significance.</p> <p>24 A. Whether the top-ranked candidate is among the</p> <p>25 top two.</p>
<p style="text-align: right;">Page 190</p> <p>1 Q. Okay. So you would say by the decision rule</p> <p>2 that we've adopted --</p> <p>3 A. You would say. You would say that.</p> <p>4 Q. Well, let's slow down a little bit, Dr.</p> <p>5 Rodden.</p> <p>6 A. That is the decision rule we have applied.</p> <p>7 Q. I think you're mistaken, but I'll explain that</p> <p>8 in a second. So Butler --</p> <p>9 A. Wait. So now you would like to apply decision</p> <p>10 rule where the top candidate --</p> <p>11 Q. No.</p> <p>12 A. -- is the top candidate regardless of</p> <p>13 confidence intervals?</p> <p>14 Q. No, no, no. I think you're misunderstanding</p> <p>15 me. Just slow down for a second.</p> <p>16 A. Okay.</p> <p>17 Q. Just slow down. The third highest candidate</p> <p>18 for blacks in 2001, as estimated by you, is Hogshead,</p> <p>19 correct?</p> <p>20 A. Right.</p> <p>21 Q. Okay. And the point estimate for Butler's</p> <p>22 support lies outside of the confidence interval for</p> <p>23 Hogshead, correct?</p> <p>24 A. Yes.</p> <p>25 Q. So we know that Butler, to a degree of</p>	<p style="text-align: right;">Page 192</p> <p>1 Q. Yes. And according to your estimates here, we</p> <p>2 know to a degree of statistical certainty that Butler was</p> <p>3 among the top two candidates for black voters in 2001,</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. But we don't know whether or not Garofalo or</p> <p>7 Hogshead were among the top two for black voters, correct,</p> <p>8 to a degree of statistical certainty?</p> <p>9 A. Correct.</p> <p>10 Q. So that's why I would like to identify Butler</p> <p>11 as a black candidate of choice here, and Butler only. Do</p> <p>12 you agree with that, using the decision rule that we've</p> <p>13 adopted for purposes of this exercise?</p> <p>14 A. Using the decision rule that we've adopted for</p> <p>15 the purposes of this exercise, which I now understand to</p> <p>16 be whether -- I'm sorry. I need to -- I now need to</p> <p>17 revisit the earlier analysis, because the decision rule</p> <p>18 was not clear to me earlier.</p> <p>19 Q. Okay.</p> <p>20 A. Okay. So far we're okay.</p> <p>21 Q. We're okay?</p> <p>22 A. So we are saying that in 2001 --</p> <p>23 Q. Butler was -- we know to a degree of</p> <p>24 statistical certitude, acceptable in peer-reviewed in</p> <p>25 political science, that Butler was among the top two</p>

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<p style="text-align: right;">Page 193</p> <p>1 candidates for black voters?</p> <p>2 A. Yes.</p> <p>3 Q. And we don't know that for any other</p> <p>4 candidate, correct?</p> <p>5 A. We don't know whether they were among the top</p> <p>6 two, because the -- the distance between the point</p> <p>7 estimate of Hogshead and Garofalo was not statistically</p> <p>8 significant, so yes.</p> <p>9 Q. Okay. So I have that as one black-preferred</p> <p>10 candidate using this decision rule, and that that one</p> <p>11 candidate was successful. Now, what I was getting at with</p> <p>12 the questions that I was actually asking you, Professor</p> <p>13 Rodden, when we went off in this direction, was just</p> <p>14 comparing the point estimates of support for Butler and</p> <p>15 Garofalo, I just want to make clear, Butler's point</p> <p>16 estimate for support is 15 percentage points higher than</p> <p>17 your point estimate of support for Garofalo, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And looking at the point estimates, Garofalo</p> <p>20 got less than two-thirds the level of support received by</p> <p>21 Butler from black voters; is that right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Now, for white voters, the top choice</p> <p>24 you have for white voters is Garofalo at 35.1 percent of</p> <p>25 white votes, correct?</p>	<p style="text-align: right;">Page 195</p> <p>1 A. That is correct, Butler was not successful.</p> <p>2 Q. Okay. So using this definition of</p> <p>3 minority-preferred, the statistical -- based on</p> <p>4 statistical significance, we know two out of two</p> <p>5 white-preferred candidates were elected, and zero out of</p> <p>6 one black-preferred candidates were elected, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And for the record, Garofalo and</p> <p>9 Hogshead are white, and Butler is black, correct?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. Let's talk about 2002. 2002 there were</p> <p>12 three seats, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Now, Fletcher was the top white voter -- sorry</p> <p>15 -- was the top candidate amongst white voters at about 22</p> <p>16 percent of white voters, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Do we know to a degree of statistical</p> <p>19 certitude whether or not the next two highest point</p> <p>20 estimated candidates for blacks -- for whites, I'm sorry,</p> <p>21 Knorr and Clark, whether or not they were, in fact, among</p> <p>22 the top three?</p> <p>23 A. No.</p> <p>24 Q. Okay. So I would like to record, by this</p> <p>25 decision rule, there is one white-preferred candidate and</p>
<p style="text-align: right;">Page 194</p> <p>1 A. Yes.</p> <p>2 Q. And for Hogshead your point estimate is she's</p> <p>3 the second highest supported candidate among white voters</p> <p>4 at 32.2 percent, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And the differences between Garofalo and</p> <p>7 Hogshead and the third highest point estimated candidate</p> <p>8 for whites, which is Lentz, that difference is</p> <p>9 statistically significant, correct?</p> <p>10 A. Yes.</p> <p>11 Q. So using this decision rule of statistical</p> <p>12 significance, we know that Garofalo and Hogshead were the</p> <p>13 top two voters -- top two candidates for white voters to a</p> <p>14 degree of statistical certitude, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Could we record that.</p> <p>17 A. (The witness complied.)</p> <p>18 Q. And who, amongst these candidates, was</p> <p>19 elected?</p> <p>20 A. I'm sorry. The two were Garofalo and</p> <p>21 Hogshead. These are long-term incumbents who are</p> <p>22 frequently re-elected, so yes.</p> <p>23 Q. Right. Oh, I'm sorry. I said before that</p> <p>24 Butler was elected, and I guess I misspoke. Butler was</p> <p>25 not elected, correct? Because it's a two-seat election.</p>	<p style="text-align: right;">Page 196</p> <p>1 Fletcher was elected, correct?</p> <p>2 A. No. The other -- the other point estimates</p> <p>3 are within the confidence interval.</p> <p>4 Q. Oh. So Fletcher is not, by the decision rule</p> <p>5 that we've articulated, a white-preferred candidate?</p> <p>6 A. There is no white-preferred candidate in 2002.</p> <p>7 Q. Okay. So let's just say zero and zero. Now,</p> <p>8 in 2002 the candidate with the highest estimated level of</p> <p>9 support amongst black voters is Graham at about 31.9</p> <p>10 percent; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And we know to a degree of statistical</p> <p>13 certitude that Graham received the highest level of black</p> <p>14 support, correct?</p> <p>15 A. No.</p> <p>16 Q. No?</p> <p>17 A. Butler is -- Butler's upper confidence</p> <p>18 interval is --</p> <p>19 Q. Oh. Yes.</p> <p>20 A. -- is there, so --</p> <p>21 Q. I see that.</p> <p>22 A. So this is a two-seat election, though, and --</p> <p>23 Q. It's a three-seat election.</p> <p>24 A. No. Three-seat election, so we can --</p> <p>25 Q. So let's just run through this. Graham has</p>

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<p style="text-align: right;">Page 197</p> <p>1 the highest level, we established, at 31.9 percent amongst 2 black voters, right?</p> <p>3 A. Yes.</p> <p>4 Q. And Butler is second at about 25.1 percent of 5 black votes, if we round?</p> <p>6 A. I'll need to look at the table.</p> <p>7 Q. Sure.</p> <p>8 A. Okay. So the question here is?</p> <p>9 Q. Butler's estimated level of support amongst 10 black voters, according to you, is about 25.1 percent of 11 black votes; is that correct?</p> <p>12 A. 25 percent, yes.</p> <p>13 Q. Okay. And the third highest ranked candidate, 14 according to your estimates, is Clark at about 12.5, 12.6 15 percent of black votes, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And the difference here is statistically 18 significant between Graham and Butler and Clark -- between 19 Graham and Butler, on the one hand, and Clark. The point 20 estimates for Graham and Butler lie outside of the 21 confidence interval for Clark amongst black voters, 22 correct?</p> <p>23 A. Something I need to clarify here is that as I 24 described earlier when we were going through the analysis 25 of turnout, when we looked at the overlapping confidence</p>	<p style="text-align: right;">Page 199</p> <p>1 analysis, we know that Graham and Butler are the top two 2 ranked candidates among black voters, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So let's record Graham and Butler.</p> <p>5 A. (The witness complied.)</p> <p>6 Q. And as to whether or not Clark is the third 7 ranked candidate among black voters, her level of support 8 -- or I don't know if it's a --</p> <p>9 A. His.</p> <p>10 Q. It's a him. His level of support is 11 statistically indistinguishable when you look at the 12 confidence intervals of the remaining three candidates, 13 Knorr, Morie and Fletcher, correct?</p> <p>14 A. That is correct.</p> <p>15 Q. Okay. So using this decision rule, we don't 16 have a third black-preferred candidate, correct?</p> <p>17 A. Correct.</p> <p>18 Q. We have two black-preferred candidates, and I 19 believe Graham was successful, but not Butler, correct?</p> <p>20 A. Correct.</p> <p>21 Q. And so the record is clear, both Graham and 22 Butler are African-American, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And we already did white voters for 25 2002, so let's look at 2003. Now, here you have three</p>
<p style="text-align: right;">Page 198</p> <p>1 intervals and we talked about a point estimate being just 2 inside a confidence interval, what I said is that I did 3 not conduct a statistical test of -- to make sure of -- 4 this is a rule of thumb.</p> <p>5 Q. Yeah.</p> <p>6 A. So when we get on the razor's edge where 7 something -- where there's a point estimate that is barely 8 within the confidence interval, we should start putting 9 asterisks or something, because some of these, it's 10 unclear. I cannot say with certainty whether these are 11 significant or not.</p> <p>12 Q. Okay. I understand.</p> <p>13 A. I just wanted that to be clear on the record.</p> <p>14 Q. Yes, of course.</p> <p>15 A. But we can continue.</p> <p>16 Q. But just to be clear, the point estimates of 17 black candidate support -- black voters support for Butler 18 and Graham, those are higher than the upper bound of the 19 confidence interval for black support for Clark, the third 20 highest ranked candidate for blacks, correct?</p> <p>21 A. The -- yeah, Clark's upper confidence interval 22 -- yes, that's correct.</p> <p>23 Q. Okay. So we know -- again, this is, I know 24 your rule of thumb, but using your rule of thumb for 25 statistical significance that you employ in your turnout</p>	<p style="text-align: right;">Page 200</p> <p>1 candidates for two seats, right, in 2003?</p> <p>2 A. Yes.</p> <p>3 MS. ORMSBY: Can I stop you right here? You 4 put this in 2003 and it should be here. I just don't -- I 5 want it --</p> <p>6 Q. Thank you, Cindy. I appreciate that. That 7 line that you drew, I think you meant for the white side 8 of 2002.</p> <p>9 A. Okay. Let me fix this. So -- I'm sorry. 10 Just --</p> <p>11 MS. ORMSBY: This should be two, one here and 12 this should be zero, zero.</p> <p>13 A. Oh, this just needs to move up. Right. Okay.</p> <p>14 MS. ORMSBY: Now we're on 2003. I'm sorry to 15 interrupt.</p> <p>16 Q. No, I appreciate you doing that. Thank you. 17 So -- okay. 2003, three candidates for two seats, 18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And we know, according to your estimate, 21 Thomas received about 54 percent of black votes, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And that's outside of the confidence interval 24 for Knorr, correct?</p> <p>25 A. By a little bit, yes.</p>

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<p style="text-align: right;">Page 201</p> <p>1 Q. Okay. So under this decision rule, Thomas is 2 a black-preferred candidate? 3 A. Yes. 4 Q. And Knorr you estimate as the second highest 5 level of support amongst blacks at 30 -- about 30.2 6 percent, correct? 7 A. Yes. 8 Q. And that's less than two-thirds of the level 9 of support amongst black voters that you estimate for 10 Thomas, correct? 11 A. Yes. 12 Q. Okay. And fair to say that Tomas received 13 substantially more support than Knorr amongst black 14 voters? 15 A. Sure. 16 Q. And as between Lentz and Knorr, the remaining 17 candidates, do we know, using that rule of thumb for 18 statistical significance, whether or not Lentz or Knorr 19 was the second highest candidate for blacks? 20 A. No. 21 Q. So let's use the decision rule and say one 22 preferred candidate, Thomas, and successful, because 23 Thomas was elected, correct? 24 MS. ORMSBY: Can I ask for clarification, 25 please?</p>	<p style="text-align: right;">Page 203</p> <p>1 A. N, in this case two. 2 Q. Yeah. 3 A. So we are determining that Gwen Thomas is -- 4 that her point estimate is statistically -- so yeah, the 5 comparison is not between number two and number three. In 6 this case it's between number one and number three, and 7 you're pointing out that Lentz is statistically 8 significantly different from Gwen Thomas. 9 Q. Uh-huh. 10 A. Okay. So hopefully, yeah, I think that's -- I 11 understand that. 12 Q. So we have Thomas, right, as a black-preferred 13 candidate, but we just don't know if Knorr or Lentz is, 14 correct? 15 A. By this approach, yes. 16 Q. Okay. So one black-preferred candidate and 17 Thomas was elected, so successful, correct? 18 A. Yes. 19 Q. Now, amongst white voters we know that the top 20 choice was Knorr with about 52.1 percent of white votes 21 cast, correct? 22 A. Yes. 23 Q. And we know, to a degree of statistical 24 significance, that Knorr was the top preferred white 25 candidate, correct?</p>
<p style="text-align: right;">Page 202</p> <p>1 MR. HO: Sure. 2 MS. ORMSBY: Maybe I'm not following. That is 3 very possible. Knorr got 30 percent, and do we look to 4 see if that's within the range of Lentz, which is 21 5 percent to 11 percent, so that's outside that, so wouldn't 6 that be significant -- statistically significant and make 7 Knorr the second minority-preferred candidate? Aren't we 8 looking to see whether that percentage is in the next 9 lowest candidate's range? 10 MR. HO: Well, Lentz's point estimate lies 11 within Knorr's confidence interval, which is quite broad. 12 MS. ORMSBY: Okay. I see. 13 MR. HO: So that's what I was assuming. 14 MS. ORMSBY: Okay. That's fine. 15 MR. HO: But if Professor Rodden has a 16 different interpretation -- 17 MS. ORMSBY: It's probably me, Dale. Sorry. 18 MR. HO: I'm not an expert on this stuff 19 either. That's why we have him here. 20 A. I'm still trying to understand the decision 21 rule. So just again, to repeat, the decision rule we are 22 currently playing around with is that the -- is that the 23 top candidate, the point estimate for the top candidate is 24 in the top -- 25 Q. Two.</p>	<p style="text-align: right;">Page 204</p> <p>1 A. Yes. 2 Q. What about Lentz, do we know whether or not 3 Lentz, who is the second preferred candidate here for 4 whites according to your estimates, if Lentz had a 5 statistically significantly higher rate of white support 6 as compared to Thomas? 7 A. No, we don't. 8 Q. Okay. So one white-preferred candidate, one 9 candidate successful, because Knorr was elected? And for 10 the record, Thomas is black and Knorr is white, correct? 11 A. Correct. 12 Q. Okay. Let's look at 2004. There were two 13 seats in this election, right? 14 A. Yes. 15 Q. Van and McClendon were the highest ranked 16 voters (sic) amongst black voters correct? 17 A. Yes. 18 Q. And Van got about 28.7 of black votes, and 19 McClendon got about 28.3 percent of black votes? 20 A. Yes. 21 Q. Okay. And those two are clearly, when you 22 take the confidence intervals into account, the two 23 highest preferred candidates amongst black voters, right? 24 A. Yes. 25 Q. Okay. Can you record that.</p>

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<p>1 A. (The witness complied.)</p> <p>2 Q. So we have two black-preferred candidates,</p> <p>3 using this decision rule, and neither were successful,</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. And Van and McClendon, for the record, are</p> <p>7 both African-American, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. For white voters the top choices are</p> <p>10 Hogshead at 30.1 percent, and Garofalo at 39.3 percent of</p> <p>11 white voters, according to your estimates, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And third place amongst white voters,</p> <p>14 according to your estimates, is Van at 11.7 percent of</p> <p>15 white votes, correct?</p> <p>16 A. Correct.</p> <p>17 Q. Statistically significant difference, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. So using this decision rule of</p> <p>20 statistical significance, two white-preferred candidates,</p> <p>21 Garofalo and Hogshead, and both were elected, correct?</p> <p>22 A. Uh-huh.</p> <p>23 Q. Okay. And for the record, Garofalo and</p> <p>24 Hogshead are both white, correct?</p> <p>25 A. Correct.</p>	<p>1 Q. And so that would mean two, according to this</p> <p>2 decision rule, two black-preferred candidates in 2006,</p> <p>3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. And neither of them were elected; is that</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. Amongst white voters in 2006, Schroeder</p> <p>9 and Knowles received the highest levels of support,</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. Schroeder at about 38 percent, and Knowles at</p> <p>13 about 27 percent of white votes, correct?</p> <p>14 A. Correct.</p> <p>15 Q. And the third highest ranked candidate amongst</p> <p>16 whites is Knorr at about 16 percent, correct?</p> <p>17 A. Correct.</p> <p>18 Q. And Schroeder and Knowles, the point estimates</p> <p>19 of white support for them are higher than the upper bound</p> <p>20 of the confidence interval for white support for Knorr,</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. So using this decision rule of statistical</p> <p>24 significance, we know that Schroeder and Knowles were the</p> <p>25 top-ranked white candidates, correct?</p>
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<p>1 Q. Okay. Let's look at 2006. Amongst black</p> <p>2 voters the top two choices are Thomas and Washington,</p> <p>3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. And Thomas has 28.2 percent of black votes,</p> <p>6 according to your estimates, and Washington has about 25.1</p> <p>7 percent of black votes, according to your estimates,</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. And the next highest candidate estimated in</p> <p>11 terms of black support -- estimated black support is</p> <p>12 Knorr; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. And the point estimates for Thomas and</p> <p>15 Washington are higher than the upper bound of the</p> <p>16 confidence interval for Knorr; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. So using statistical significance as the</p> <p>19 decision rule here, we know that African-American voters</p> <p>20 preferred Thomas and Washington at a statistically</p> <p>21 significant higher rate than any other candidate in 2006,</p> <p>22 correct?</p> <p>23 A. You said Washington and Thomas?</p> <p>24 Q. Yes.</p> <p>25 A. Yes.</p>	<p>1 A. Correct.</p> <p>2 Q. So again, using this decision rule, we would</p> <p>3 say there are two white-preferred candidates, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And both were elected, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. Now, in 2007 there was no election,</p> <p>8 correct?</p> <p>9 A. Correct.</p> <p>10 Q. And there's no data to report in terms of</p> <p>11 voting patterns for that election, correct?</p> <p>12 A. Correct.</p> <p>13 Q. Now, if you did report it, you would note that</p> <p>14 Garofalo and Hogshead retained their seats without</p> <p>15 opposition in 2007, correct?</p> <p>16 A. Right.</p> <p>17 Q. And both of them are white, correct?</p> <p>18 A. Correct.</p> <p>19 Q. Now, just using -- I mean using the definition</p> <p>20 that we're adopting for purposes of Exhibit 13, defining</p> <p>21 candidate support or preferred candidate status in terms</p> <p>22 of statistical significance, neither Garofalo nor Hogshead</p> <p>23 has ever been a black-preferred candidate, correct?</p> <p>24 A. Using the rule of thumb, that would be true.</p> <p>25 I do not know in 2013 the -- the -- if we applied a 90 --</p>

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<p style="text-align: right;">Page 209</p> <p>1 some other confidence interval, then yes, then Hogshead</p> <p>2 would be considered a candidate of choice, so there's a</p> <p>3 razor's edge decision here that -- and we are using the</p> <p>4 confidence intervals as a rule of thumb, not knowing --</p> <p>5 not having done the test of statistical significance. So</p> <p>6 it is what it is. Hogshead, under the rules that have</p> <p>7 been applied in Exhibit 13, falls just short of being a</p> <p>8 minority candidate of choice.</p> <p>9 Q. Okay.</p> <p>10 A. As far as I understand. We have not gone to</p> <p>11 2013 yet.</p> <p>12 Q. Yeah, yeah. I'm sorry. And I'm sorry if my</p> <p>13 question wasn't clear. I mean in previous elections prior</p> <p>14 to 2007. Using the decision rule employed in Exhibit 13,</p> <p>15 neither Hogshead nor Garofalo has been a</p> <p>16 minority-preferred candidate of choice, correct?</p> <p>17 A. Previously -- previously in this figure, that</p> <p>18 is correct.</p> <p>19 Q. Okay. And can you pull out Rodden Exhibit 12?</p> <p>20 This was the chart where we defined the minority-preferred</p> <p>21 candidates based purely on the point estimates, okay? So</p> <p>22 just using the top two point estimates in two-seat</p> <p>23 elections.</p> <p>24 A. Yes.</p> <p>25 Q. So Garofalo and Hogshead ran in 2004, correct?</p>	<p style="text-align: right;">Page 211</p> <p>1 black-preferred candidate in 2007, using this decision</p> <p>2 rule of point estimates, you would sort of impute</p> <p>3 backwards the fact that she was the second preferred black</p> <p>4 candidate in 2013 to black preferences in 2007, Dr.</p> <p>5 Rodden?</p> <p>6 A. I don't believe I said that.</p> <p>7 Q. If you were -- if you were to describe her as</p> <p>8 a black-preferred candidate in 2007, the way you would do</p> <p>9 that would be by imputing her level of support amongst</p> <p>10 black voters in 2013 backwards six years to 2007; is that</p> <p>11 right, Dr. Rodden? Because you identified the fact that</p> <p>12 she was, in your view, black-preferred in 2013 as relevant</p> <p>13 to this assessment.</p> <p>14 A. I do believe it's relevant, but it is -- you</p> <p>15 are suggesting a decision rule in which -- you're asking</p> <p>16 how we should think about elections that didn't happen,</p> <p>17 and there are a number of ways we could do that. You</p> <p>18 asked me if she had been a candidate of choice prior to</p> <p>19 2007, and the answer is no. I interjected that if the</p> <p>20 question was was she ever a candidate of choice, you asked</p> <p>21 me to look at Exhibit 12, and the answer, using Exhibit</p> <p>22 12, would be yes. That's all I meant to say.</p> <p>23 Q. So she's run in contested elections three</p> <p>24 times, 2001, 2004 and 2013, correct?</p> <p>25 A. That sounds right.</p>
<p style="text-align: right;">Page 210</p> <p>1 A. Yes.</p> <p>2 Q. And neither of them were the</p> <p>3 minority-preferred candidates just in terms of having the</p> <p>4 highest point estimates in 2004, correct?</p> <p>5 A. Correct.</p> <p>6 Q. And they also ran in 2001, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And Hogshead was not amongst the two</p> <p>9 black-preferred candidates in 2001 using the point</p> <p>10 estimates to define preferred candidate status, correct?</p> <p>11 A. Correct.</p> <p>12 Q. Okay.</p> <p>13 A. But she was, by this standard, a candidate of</p> <p>14 choice for African-Americans in 2013, so I'm not sure why</p> <p>15 we would value the past over the present in this -- in</p> <p>16 this setting. I think -- if the question is was she ever</p> <p>17 a preferred candidate, the answer is yes.</p> <p>18 Q. Well, prior to 2007, correct?</p> <p>19 A. Okay.</p> <p>20 Q. She had not been amongst the top two</p> <p>21 candidates for black voters, according to your estimates,</p> <p>22 correct?</p> <p>23 A. Prior to 2007 she came very close, but was not</p> <p>24 quite, that's correct.</p> <p>25 Q. So if you were to describe her as a</p>	<p style="text-align: right;">Page 212</p> <p>1 Q. And using the point estimates, you would say</p> <p>2 she was a black candidate of choice in one out of those</p> <p>3 three elections, correct, 2013?</p> <p>4 A. Using the point estimate approach, I would say</p> <p>5 she was a candidate of choice in one of those three, yes.</p> <p>6 Q. Okay. So because she was a candidate of</p> <p>7 choice, using the point estimate approach, one out of</p> <p>8 three times in which she ran for office and was not a</p> <p>9 candidate of choice two out of three times in which she</p> <p>10 ran for office, you're describing her in 2007 as a</p> <p>11 black-preferred candidate, correct?</p> <p>12 A. Right now am I doing that?</p> <p>13 Q. In your report. I mean I believe --</p> <p>14 A. Can you point to a paragraph?</p> <p>15 Q. Sure.</p> <p>16 A. I'm just trying to remember what -- we haven't</p> <p>17 gone through the uncontested elections analysis yet, so I</p> <p>18 need to have a look.</p> <p>19 Q. You describe the 2010 election in Paragraph</p> <p>20 60, and you say Leslie Hogshead was elected. You note</p> <p>21 that she was a minority-preferred candidate, according to</p> <p>22 the point estimate approach, in 2013.</p> <p>23 Now, in Paragraph 73, to give you another</p> <p>24 example, you include uncontested elections in a</p> <p>25 calculation in the second to last sentence here. You say,</p>

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<p style="text-align: right;">Page 213</p> <p>1 "Of the 37 seats up for election since 2000" -- well, let 2 me just stop there. When you say of the 37 seats up for 3 election since 2000, when you offer that statistic, you're 4 including uncontested elections, correct? 5 A. I believe so, yes. 6 Q. And you say 20 were won by minority-preferred 7 candidates, 54 percent, correct? 8 A. Yes. 9 Q. And in reaching that number of 20 wins by 10 minority-preferred candidates, you count Leslie Hogshead 11 as a minority-preferred candidate in the 2007 and 2010 12 elections, correct? 13 A. I don't have the data in front of me, but it's 14 -- I may have. I don't remember. 15 Q. Right. And you may have included Leslie 16 Hogshead as a minority-preferred candidate even though in 17 two out of three elections that she ran, she was, in fact, 18 not minority-preferred, using the point estimate decision 19 rule for minority-preferred status, correct, Dr. Rodden? 20 A. If indeed I included her in this calculation, 21 which -- of which the data are not in front of me, so if 22 that is the case, then it would be true that she was 23 minority-preferred by the point estimate approach in one 24 out of three. 25 Q. And then you may have counted her as</p>	<p style="text-align: right;">Page 215</p> <p>1 candidates using this decision rule, correct, Dr. Rodden? 2 A. Yes. 3 Q. And both were elected in 2009, correct? 4 A. Yes. 5 Q. Okay. And the same two candidates are the 6 white-preferred candidates, using this decision rule, 7 correct? 8 A. Yes. 9 Q. Just in reverse order, Schroeder first, then 10 Knowles, right? That's two and two, correct? Now, just 11 to be clear, there are no black candidates in this race, 12 correct? 13 A. Yes, I believe that's correct. 14 Q. So voting for an African-American candidate 15 was not an option for voters in this election, correct? 16 A. Correct. 17 Q. 2011, let's look at that next. Now, there 18 were three seats in this election, right? 19 A. Yes. 20 Q. And the highest ranked candidate in terms of 21 white support is Martinez at about 23 percent, with some 22 rounding, correct? 23 A. Yes. 24 Q. And that level of support that you estimate 25 for Martinez is statistically significantly higher than</p>
<p style="text-align: right;">Page 214</p> <p>1 minority-preferred in the two uncontested elections in 2 2007 and 2010 on that basis, correct, Dr. Rodden? 3 A. I would need to look at the data, but it seems 4 -- it seems -- it seems that I may have. 5 Q. Okay. Let's get back to the 2009 election. 6 There were two seats up for election in 2009 with three 7 candidates, correct? 8 A. I'm sorry. 2009 there were -- there were two 9 seats, yes. 10 Q. And the top two candidates that you estimate 11 in terms of black support are Schroeder and Knowles, 12 correct? 13 A. Correct. 14 Q. Okay. And the point estimates for support 15 amongst black voters for Knowles and Schroeder are higher 16 than the upper bound of the confidence interval for black 17 support for Heise, the third and only other candidate in 18 the race, spelled H-e-i-s-e, correct? 19 A. Yes. 20 Q. Okay. So fair to say, using the decision rule 21 of statistical significance, that rule of thumb that we're 22 adopting for purposes of Exhibit 13, that Knowles and 23 Schroeder are black-preferred candidates? 24 A. Yes. 25 Q. Okay. So we have two black-preferred</p>	<p style="text-align: right;">Page 216</p> <p>1 the estimates that you have for white support for all the 2 other candidates, correct? 3 A. Correct. 4 Q. Using statistical significance as a decision 5 rule, is it possible to identify a second or third 6 white-preferred candidate in this election? 7 A. No. 8 Q. Okay. And Martinez was elected, correct? 9 A. Yes. 10 Q. So again, using this decision rule of 11 statistical significance, white-preferred candidates were 12 one for one in 2011, correct? 13 A. Yes. 14 Q. And Martinez is not black, correct? 15 A. Correct. 16 Q. Okay. 2011, black candidate support, you 17 estimate that Hawkins and Graham had the highest levels of 18 support amongst black voters, with each receiving about 22 19 percent of black votes, correct? 20 A. Yes. 21 Q. And that is a statistically significantly 22 higher level of black support versus all other candidates 23 in 2011, correct? 24 A. Clark comes very close, but does not quite 25 make the cutoff, the rule of thumb cutoff. I don't know</p>

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<p style="text-align: right;">Page 217</p> <p>1 what would happen if we did a test of statistical 2 significance, but using the rule of thumb cutoff, Clark 3 falls short. 4 Q. Okay. Since we want to apply this rule 5 objectively, I'm going to say using this decision rule, 6 it's fair -- I'm going to ask you, it's fair, using this 7 decision rule, to identify Graham and Hawkins as 8 black-preferred candidates, but to say that there is not a 9 clear third black-preferred candidate, correct? 10 A. Correct. 11 Q. So let's record Graham and Hawkins. And there 12 were two black-preferred candidates, according to this 13 decision rule. Now, Graham and Hawkins, neither of them 14 were elected, correct? 15 A. They both fell short by a very small number of 16 votes, correct. 17 Q. Now, just to close the loop here on Clark, 18 your point estimate for Clark's support is about 10 19 percentage points lower among black voters than for Graham 20 and Hawkins, correct? 21 A. Correct. 22 Q. And is it accurate to say that Graham and 23 Hawkins are estimated to have received about twice as many 24 black votes as Clark? 25 A. Yes.</p>	<p style="text-align: right;">Page 219</p> <p>1 A. Correct. 2 Q. For the record, Ebert and Schroeder are both 3 white, correct? 4 A. Correct. 5 Q. Okay. For black voters the candidate with the 6 highest estimated level of support is B. Morris at 51.3 7 percent, correct? 8 A. Yes. 9 Q. And we know, to a degree of statistical 10 significance, that she received more votes amongst black 11 voters than Ebert and Schroeder, correct? 12 A. Correct. 13 Q. Okay. We don't know, to a degree of 14 statistical significance, whether black voters supported 15 Ebert or Schroeder more, correct? 16 A. Correct. 17 Q. And in fact, you could say fairly that black 18 voters were not cohesive with respect to either Ebert or 19 Schroeder, correct? 20 A. Correct. 21 Q. Okay. So given the rules that we've 22 articulated, one black-preferred candidate, B. Morris, who 23 was not elected, correct? 24 A. Yes. 25 Q. Now, you say that one minority-preferred</p>
<p style="text-align: right;">Page 218</p> <p>1 Q. And is it also then fair to say that Graham 2 and Hawkins received substantially more black votes than 3 Clark? 4 A. Yes, sure. 5 Q. All right. So let's look at 2012. This is a 6 two-candidate election, correct? I'm sorry. Two-seat 7 election, correct? 8 A. Yes. 9 Q. With three candidates, correct? 10 A. Yes. 11 Q. Now, for white voters the top-ranked 12 candidates, according to your estimates, are Ebert at 13 about 46.9 percent and Schroeder at about 41.1 percent; is 14 that correct? 15 A. Yes. 16 Q. And they received white support at a 17 statistically significantly higher rate than the only 18 other candidate in the race, B. Morris, correct? 19 A. Correct. 20 Q. Okay. So applying this decision rule, can we 21 record Ebert and Schroeder as white-preferred? 22 A. (The witness complied.) 23 Q. And applying this discussion rule, that would 24 mean there were two white-preferred candidates, and both 25 of them were elected, correct?</p>	<p style="text-align: right;">Page 220</p> <p>1 candidate was elected in 2012, in your report, and that's 2 based on the point estimates, correct? 3 A. You are referring to the text of the 4 paragraphs in which I was applying the point estimate -- 5 Q. Uh-huh. 6 A. -- technique? 7 Q. So Paragraph 57 where you describe the results 8 of the 2013 election, you say one minority-preferred 9 candidate was elected, that's the last sentence in that 10 paragraph. 11 A. Yes, that is using the point estimate 12 approach, yes. 13 Q. Okay. And that's using the point estimate 14 approach to define Schroeder as a black-preferred 15 candidate, correct? 16 A. Yes. 17 Q. Now, given that there were only three 18 candidates for two seats, if you use the point estimate 19 approach, you will always conclude that a black-preferred 20 candidate was successful, correct? 21 A. Are you referring to -- making a general 22 statement? 23 Q. Well, if you use a point estimate approach 24 like you do here in the text of this paragraph, any time 25 you have a two-seat election with three candidates, at</p>

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<p style="text-align: right;">Page 221</p> <p>1 least one black-preferred candidate will win, correct?</p> <p>2 A. Sure.</p> <p>3 Q. Okay. And when you make that assessment, you</p> <p>4 don't make any assessment of the relative levels of</p> <p>5 support amongst candidates, correct? You just say second</p> <p>6 highest point estimate amongst black voters, that's a</p> <p>7 black-preferred candidate and that person won?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Now, if we compare the level of support</p> <p>10 that Schroeder received, and Schroeder has the second</p> <p>11 highest level of black estimated support, according to</p> <p>12 you, if we compare that to what B. Morris got, right,</p> <p>13 Schroeder got about half the level of support estimated</p> <p>14 amongst black voters as Morris, correct?</p> <p>15 A. Correct.</p> <p>16 Q. Fair to say that Morris got substantially more</p> <p>17 support amongst black voters than Schroeder?</p> <p>18 A. Yes. It is fair to say that Barbara Morris</p> <p>19 received a good deal of support from African-Americans,</p> <p>20 but that African-Americans used their second ballot to</p> <p>21 vote for a combination of Paul Schroeder and Mr. Ebert,</p> <p>22 and that by splitting their votes among the white</p> <p>23 candidates, they prevented Barbara Morris from winning.</p> <p>24 Because the African-American candidates had</p> <p>25 the opportunity to cast all of their votes -- their only</p>	<p style="text-align: right;">Page 223</p> <p>1 effect of Barbara Morris could have won if more black</p> <p>2 voters had employed a single-shot strategy, correct?</p> <p>3 A. Yes, and she also could have won if more white</p> <p>4 voters had voted for her.</p> <p>5 Q. Yeah.</p> <p>6 A. Both things are true.</p> <p>7 Q. Right. So --</p> <p>8 A. So it's very difficult for us to -- to -- to</p> <p>9 claim that she was -- that she was blocked by -- by white</p> <p>10 block voting, but this is not where we are right now, so</p> <p>11 we'll come back to that.</p> <p>12 MS. ORMSBY: And he was in the middle of a</p> <p>13 question and you started talking.</p> <p>14 A. Yes.</p> <p>15 MS. ORMSBY: So let him finish his question</p> <p>16 and then you can answer.</p> <p>17 A. I'm sorry.</p> <p>18 Q. That's okay. So one of the reasons -- so you</p> <p>19 identify two reasons. I want to talk about them</p> <p>20 separately.</p> <p>21 A. Sure.</p> <p>22 Q. One of the reasons you say that she lost was,</p> <p>23 or one way in which her loss could have been averted --</p> <p>24 maybe that's a more appropriate way to characterize what</p> <p>25 you said.</p>
<p style="text-align: right;">Page 222</p> <p>1 -- to cast one vote for Ms. Morris, and if they had done</p> <p>2 so, she would have easily won, so this kind of reveals</p> <p>3 some of the difficulties of the technique that we're</p> <p>4 currently using, because we -- you know, if it's the case</p> <p>5 here that African-Americans preferred Morris -- we clearly</p> <p>6 can tell that they preferred Morris to Schroeder or Ebert,</p> <p>7 but the problem for us is that -- that we're looking at --</p> <p>8 we're -- well, we're getting ahead of ourselves to get to</p> <p>9 the question of -- to get to the question of -- really at</p> <p>10 the heart of the Voting Rights Act, so I guess we're just</p> <p>11 focussing on pure wins and losses right now. So we'll</p> <p>12 come back to the other questions later, but we do need to</p> <p>13 understand how the wins and losses happen and how that</p> <p>14 relates to the Voting Rights Act.</p> <p>15 Q. I was actually --</p> <p>16 A. We'll come to that.</p> <p>17 Q. Sorry, Dr. Rodden. I was actually asking a</p> <p>18 much simpler question.</p> <p>19 A. I understand.</p> <p>20 Q. It was not even wins or losses. Just fair to</p> <p>21 say that Barbara Morris received substantially more</p> <p>22 support from black voters than the other two candidates in</p> <p>23 the race, Schroeder and Ebert?</p> <p>24 A. Yes, fair enough.</p> <p>25 Q. And you said, I believe, something to the</p>	<p style="text-align: right;">Page 224</p> <p>1 A. Yes.</p> <p>2 Q. One of the ways in which her loss could have</p> <p>3 been averted would have been if more black voters had</p> <p>4 engaged in single-shot voting, correct?</p> <p>5 A. Correct.</p> <p>6 Q. So if more black voters had abandoned one of</p> <p>7 their votes, they could have elected their preferred</p> <p>8 candidate, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Do you -- is it your opinion that in order to</p> <p>11 elect their preferred candidates, minority voters are</p> <p>12 obligated to abandon one of their votes?</p> <p>13 A. No. Had there been -- had there been an</p> <p>14 additional candidate on the ballot who African-American</p> <p>15 voters preferred to Schroeder or Brown, they could have</p> <p>16 voted for one of those candidates.</p> <p>17 Given the line-up in 2012 of who filed to run,</p> <p>18 if we try to examine how this election played out and</p> <p>19 understand whether or not block voting led to -- led to</p> <p>20 the losses that we will soon, I presume, tally up in this</p> <p>21 column, then some of this context is necessary to</p> <p>22 understand. But I realize I'm getting ahead of myself and</p> <p>23 right now we're simply asking questions about wins and</p> <p>24 losses and preferred candidates.</p> <p>25 Q. Well, actually I didn't ask a question about</p>

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<p style="text-align: right;">Page 225</p> <p>1 wins or losses. I just asked the question of whether you 2 believe that in order to elect their preferred candidates, 3 minority voters should be obliged under some circumstances 4 to abandon one of their votes in a multi-seat contest. 5 A. You're asking a normative question whether I 6 think that is a good thing? 7 Q. Just -- 8 A. I don't -- I don't have a strong opinion on 9 that. I believe the task here is to analyze the 10 conditions set forth by the Voting Rights Act and the 11 Gingles Supreme Court decision, which doesn't ask me to 12 make a normative judgment about electoral systems and what 13 -- how many ballots they ask a person to cast under 14 different conditions. 15 Q. One thing you mentioned, though, I believe you 16 said that Ms. Morris' loss could have been averted if more 17 white voters voted for her; is that correct? 18 A. Sure. 19 Q. In Paragraph 57 of your report where you talk 20 about the 2012 election, the third to last sentence you 21 write -- it's about five lines from the bottom, you write, 22 "Like Mr. Henson, Ms. Morris failed to achieve a majority 23 of the votes cast even in the precincts where 80 percent 24 of the voting age population was African-American." 25 I read that correctly, right?</p>	<p style="text-align: right;">Page 227</p> <p>1 voters; is that correct? 2 A. Yes. 3 Q. And their level of support is statistically 4 significantly different from that of other candidates 5 amongst white voters, correct? 6 A. Yes. 7 Q. So using this decision rule of statistical 8 significance, they are white-preferred candidates and 9 there are two white-preferred candidates in 2013, correct? 10 A. Using this rule of thumb, correct, yes. 11 Q. Right, this rule of thumb. And Brown and 12 Hogshead were both elected, correct? 13 A. Yes. 14 Q. And both Brown and Hogshead are white, 15 correct? 16 A. Correct. 17 Q. Okay. Amongst black voters Henson is the 18 clear top choice amongst black voters, correct? His point 19 estimate for support is higher than the upper bounds of 20 the confidence interval for any other candidate amongst 21 black voters, correct? 22 A. Correct. 23 Q. And the second highest candidate in terms of 24 estimated black support is Hogshead at about 25 percent, 25 correct?</p>
<p style="text-align: right;">Page 226</p> <p>1 A. That's correct, yes. 2 Q. Now, the only way in a two-seat election to 3 get a majority of votes cast is if some of your supporters 4 engaged in single-shot voting, correct? 5 A. Correct. 6 Q. So are you saying here that it is remarkable 7 in some sense that more black voters did not engage in 8 single-shot voting for Ms. Morris? 9 A. Am I saying that's remarkable? 10 Q. Uh-huh. 11 A. No, I don't think I said that. 12 Q. Okay. Well, you're noting that she failed to 13 receive a majority of votes cast in predominantly 14 African-American precincts. But the only way she could 15 have gotten a majority of votes in any precinct is if a 16 number of her supporters at that precinct engaged in 17 single-shot voting, correct? 18 A. Correct. 19 Q. Okay. Let's talk about the 2013 election. 20 A. Sure. 21 Q. There are two seats up in that election, 22 correct? 23 A. Yes. 24 Q. Now, you estimate that Brown and Hogshead 25 received the highest level of support amongst white</p>	<p style="text-align: right;">Page 228</p> <p>1 A. Yes. 2 Q. And I just want to compare Henson and Hogshead 3 here for a minute. Henson is at about 38.7 percent; is 4 that correct, in terms of black support? 5 A. Yes, that sounds right. 6 Q. Okay. And that means Hogshead got a little 7 less than two-thirds of the estimated support as Henson 8 amongst black voters; is that correct? 9 A. About right. 10 Q. Okay. And fair to say that Henson got 11 substantially more support than Hogshead amongst black 12 voters? 13 A. Now we're cutting it close with substantially. 14 It's higher. 15 Q. Okay. Now, we don't know, to a degree of 16 statistical certitude, that Hogshead was the second choice 17 amongst black voters, correct? 18 A. We've discussed that, right. 19 Q. So using the statistical significance rule of 20 thumb as a decision rule here, we have one candidate of 21 choice amongst black voters in 2013 and that's Henson, 22 correct? 23 A. Correct. 24 Q. And Henson was not elected, correct? 25 A. He lost by 90 votes. That is correct.</p>

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<p style="text-align: right;">Page 229</p> <p>1 Q. And Henson is African-American, correct?</p> <p>2 A. Correct.</p> <p>3 Q. I want to ask you about what you write in your</p> <p>4 report about Ms. Hogshead on Page 29, Paragraph --</p> <p>5 A. One moment. I'm still filling out the form.</p> <p>6 Q. Sure. Take your time. Let me know when</p> <p>7 you're ready.</p> <p>8 A. So Henson was -- there was one preferred</p> <p>9 candidate, we agreed, in 2013?</p> <p>10 Q. Uh-huh.</p> <p>11 A. And he was not successful, okay.</p> <p>12 Q. So I would like to ask you about what you say</p> <p>13 about Leslie Hogshead here. On Page 72, Paragraph 54.</p> <p>14 A. I don't have that many pages.</p> <p>15 Q. Oh, sorry. Page 29, Paragraph 54. I don't</p> <p>16 know why I said that.</p> <p>17 A. Okay.</p> <p>18 Q. About five lines down you have a sentence here</p> <p>19 that starts with although, "Although the estimates</p> <p>20 indicate that Mr. Henson had higher support among</p> <p>21 African-Americans than the other candidates, the</p> <p>22 confidence interval overlaps substantially with that of</p> <p>23 Ms. Hogshead who traditionally performs well among</p> <p>24 African-Americans in the southern parts" -- "southern part</p> <p>25 of the districts. See other years in Figure 8."</p>	<p style="text-align: right;">Page 231</p> <p>1 A. Using your rule of thumb, she was tied for</p> <p>2 second.</p> <p>3 Q. Okay.</p> <p>4 A. I mean --</p> <p>5 Q. But just using the point estimates -- I know</p> <p>6 you're right. We're switching between different decision</p> <p>7 rules.</p> <p>8 A. Okay.</p> <p>9 Q. I'll concede that.</p> <p>10 A. We'll do that.</p> <p>11 Q. But using your decision rule of the point</p> <p>12 estimates, Leslie Hogshead finished third out of four</p> <p>13 candidates among black voters, correct?</p> <p>14 A. Yes, but -- okay. Sure.</p> <p>15 Q. And in 2004 Leslie Hogshead ran again, right?</p> <p>16 A. Yes.</p> <p>17 Q. And there were five candidates in 2004, right?</p> <p>18 A. Yes.</p> <p>19 Q. And according to your point estimates and</p> <p>20 using the -- one of the two decision rules that you have</p> <p>21 suggested here for defining candidates of choice, of the</p> <p>22 five candidates in 2004, Leslie Hogshead had the lowest</p> <p>23 level of support amongst black voters, correct?</p> <p>24 A. Correct.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">Page 230</p> <p>1 So I want to look at Figure 8. And where in</p> <p>2 Figure 8 does it indicate that Ms. Hogshead performs well</p> <p>3 traditionally among black voters in the southern part of</p> <p>4 the district?</p> <p>5 A. I'm trying to find the years when she was</p> <p>6 running. Let's see. She was --</p> <p>7 Q. 2001, 2004, 2007, 2010 and 2013.</p> <p>8 A. That's 1 and 13?</p> <p>9 Q. Yes. 1, 4, 7 and 10 are uncontested, so 1, 4,</p> <p>10 and 13. I mean what does Figure 8 -- you reference Figure</p> <p>11 8 for this proposition, so I'm trying to understand.</p> <p>12 A. Sure. I'm just looking at the fact that she</p> <p>13 receives 20 percent of the vote in 2001.</p> <p>14 Q. Uh-huh.</p> <p>15 A. It's a bit lower in 2004.</p> <p>16 Q. Uh-huh. Well, let's talk about those two</p> <p>17 elections, if you don't mind, for a second.</p> <p>18 A. Okay.</p> <p>19 Q. Leslie Hogshead ran in 2001, correct?</p> <p>20 A. Yes.</p> <p>21 Q. There were four candidates in 2001, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And of the four candidates, Leslie Hogshead</p> <p>24 had the third highest level of support amongst black</p> <p>25 voters, according to the point estimates, correct?</p>	<p style="text-align: right;">Page 232</p> <p>1 A. But if we compare that level of support to a</p> <p>2 lot of other candidates, as we scan up and down Figure 8,</p> <p>3 which is what I was directing the reader to do, her</p> <p>4 support is -- for white candidates, it is relatively high.</p> <p>5 That's only the point I was trying to make in the sentence</p> <p>6 that you're referring to here is that relative to other</p> <p>7 white candidates, Hogshead's mean, somewhere around 19</p> <p>8 percent, I haven't calculated it, but it's higher than</p> <p>9 many other white candidates.</p> <p>10 Q. Uh-huh. Uh-huh. And that's because white</p> <p>11 candidates typically perform worse amongst black voters</p> <p>12 than black candidates, right?</p> <p>13 A. By some -- yes, there is -- the correlations</p> <p>14 we've seen are -- there is a correlation there.</p> <p>15 Q. And in your opinion, 20 percent black support</p> <p>16 is pretty good for a white candidate in the</p> <p>17 Ferguson-Florissant school district, correct?</p> <p>18 A. It varies a great deal from one election to</p> <p>19 another. There are elections recently, if we would like</p> <p>20 to make some comparisons, there are some elections in</p> <p>21 which African-American candidates -- I'm sorry -- white</p> <p>22 candidates receive -- unfortunately in Figure 8 I don't</p> <p>23 have the race of the candidates clearly marked, but we see</p> <p>24 candidates receiving in the, you know, 25 percent range,</p> <p>25 30 percent fairly frequently.</p>

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<p>1 Q. So I thought you said that Leslie Hogshead's</p> <p>2 support amongst black voters was relatively high for a</p> <p>3 white candidate.</p> <p>4 A. There are some who are higher.</p> <p>5 Q. You say it's relatively frequent for people to</p> <p>6 be in the 25 -- for white candidates to be in the 25 to 30</p> <p>7 percent range amongst black voters?</p> <p>8 A. The question is whether it is relatively</p> <p>9 frequent?</p> <p>10 Q. I thought that's what you said earlier, so I</p> <p>11 just -- if I misheard you, then that's all I'm asking.</p> <p>12 A. I'm looking at a lot of data.</p> <p>13 Q. Yeah.</p> <p>14 A. And forming some impressions. I'm not in a</p> <p>15 position to give you the -- kind of tell you about the</p> <p>16 distribution of all of those candidates.</p> <p>17 Q. Okay.</p> <p>18 A. Some of them get very little support among</p> <p>19 African-American candidates (sic). Some of them get more</p> <p>20 support. Hogshead has had a couple of elections where</p> <p>21 she's -- where she's gotten relatively stronger support</p> <p>22 than others.</p> <p>23 Q. Okay. Let's look at Page 27 of your report,</p> <p>24 Paragraph 50, the first sentence. You write, "Let us now</p> <p>25 consider the highly polarized 2014 election in which three</p>	<p>1 A. Yes.</p> <p>2 Q. So using the statistical significance rule of</p> <p>3 thumb decision rule here, we can describe them fairly as</p> <p>4 black-preferred candidates, correct?</p> <p>5 A. We can.</p> <p>6 Q. And that would mean three black-preferred</p> <p>7 candidates identifiable in this election, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And of those three, one was elected,</p> <p>10 Paulette-Thurman, correct?</p> <p>11 A. Correct.</p> <p>12 Q. Now, all three of these candidates are</p> <p>13 African-American, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Now, for white voters, the top</p> <p>16 vote-getters were Chabot at 25.7 percent, Morris at 22.3</p> <p>17 percent, and Benz at 19.1 percent; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. And their levels of support are all</p> <p>20 statistically distinct from the remaining candidates in</p> <p>21 terms of white votes, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So using this decision rule, rule of</p> <p>24 thumb of statistical significance, we could say these</p> <p>25 three are white-preferred candidates, there are three</p>
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<p>1 seats were contested."</p> <p>2 Did I read what you wrote accurately?</p> <p>3 A. Yes.</p> <p>4 Q. And you would agree then that the 2014</p> <p>5 election was a highly polarized election?</p> <p>6 A. I believe that polarization, racial</p> <p>7 polarization of elections, is not useful to think of as a</p> <p>8 binary concept so that we can classify it as either</p> <p>9 polarized or not polarized. Some elections here are more</p> <p>10 polarized than others. It is just a -- it's a -- we can</p> <p>11 think of it as kind of a sliding scale. And clearly, when</p> <p>12 I look at all these elections, I'm pointing out that 2014</p> <p>13 is the most polarized of any of those elections.</p> <p>14 Q. Okay. So it's highly polarized, that's how</p> <p>15 you would characterize 2014?</p> <p>16 A. That's how I characterized it in the report,</p> <p>17 yes.</p> <p>18 Q. Okay. Now, the top vote-getters amongst black</p> <p>19 voters in 2014 were Paulette-Thurman at 24.2 percent,</p> <p>20 Johnson at about 21.5 percent, and Savala at about 21.4</p> <p>21 percent; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. And they all received a level of support that</p> <p>24 was statistically significantly higher amongst black</p> <p>25 voters than the remaining candidates, correct?</p>	<p>1 white-preferred candidates, and of those three, two were</p> <p>2 elected, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And all three of these white-preferred</p> <p>5 candidates are white, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. I just want to look at some numbers</p> <p>8 here now. Well, actually, I'm sorry, before we do that, I</p> <p>9 want to look at your report again. Let's look at Page 22,</p> <p>10 Paragraph 39. It's the paragraph that continues from the</p> <p>11 previous sentence -- previous page, I mean. The first</p> <p>12 full sentence reads, "The affair ended with a mutual</p> <p>13 agreement not to release any details of the charges</p> <p>14 against the outgoing superintendent, but the lack of</p> <p>15 information angered many parents and the affair led to the</p> <p>16 creation of a slate of African-American candidates who</p> <p>17 made race an explicit part of their campaign. This</p> <p>18 racially polarizing event produced some unusually</p> <p>19 polarized election outcomes."</p> <p>20 Did I read what you wrote accurately?</p> <p>21 A. Yes.</p> <p>22 Q. The racially polarizing event that you are</p> <p>23 referring to, is that the separation of the school</p> <p>24 superintendent or is that the creation of a slate of</p> <p>25 African-American candidates who, in your view, made race</p>

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<p style="text-align: right;">Page 237</p> <p>1 an explicit part of the campaign, or both?</p> <p>2 A. I was really referring to the resignation of</p> <p>3 the superintendent.</p> <p>4 Q. Okay. And the slate of African-American</p> <p>5 candidates you're referring to who, in your view, made</p> <p>6 race an explicit part of their campaign, that's</p> <p>7 Paulette-Thurman, Johnson and Savala, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And which of those three, if any, do you feel</p> <p>10 made race an explicit part of the campaign?</p> <p>11 A. The slate of candidates had some -- some --</p> <p>12 well, I guess the information I have on that is really --</p> <p>13 comes from media reporting on the -- on the agenda of the</p> <p>14 -- of the slate. I don't believe I have personally</p> <p>15 perused campaign materials to see whether they -- whether</p> <p>16 they mentioned race. I was getting this characterization</p> <p>17 from media reports.</p> <p>18 Q. Okay.</p> <p>19 A. So it could be inaccurate.</p> <p>20 Q. I would like to mark something as Rodden</p> <p>21 Exhibit 14.</p> <p>22 (Whereupon, Rodden Deposition Exhibit No. 14</p> <p>23 was marked for identification.)</p> <p>24 Q. This was provided to us by your counsel when</p> <p>25 we asked for the materials on which you rely in various</p>	<p style="text-align: right;">Page 239</p> <p>1 consulted, and these were some that I could reconstruct</p> <p>2 and find.</p> <p>3 Q. Can you remember any other media sources that</p> <p>4 you considered in --</p> <p>5 A. I cannot.</p> <p>6 Q. Just let me finish the question.</p> <p>7 A. Sorry.</p> <p>8 Q. Can you remember any other media sources that</p> <p>9 you considered in arriving at the conclusion that the</p> <p>10 slate of three candidates that we referred to earlier made</p> <p>11 race an explicit part of their campaign?</p> <p>12 A. No.</p> <p>13 Q. It's just these three articles, correct?</p> <p>14 A. I don't recall which other articles I read. I</p> <p>15 spend a lot of time reading about current affairs in the</p> <p>16 district, and when I was asked to reconstruct all of those</p> <p>17 searches and remember what I had read, I certainly did not</p> <p>18 give a full accounting.</p> <p>19 Q. Okay. Let's look at what's been marked as</p> <p>20 Rodden Exhibit 17, one of the St. Louis Public Radio</p> <p>21 articles. This one is dated January of 2014. I want to</p> <p>22 turn to the third page here, and I'm counting both front</p> <p>23 and back. Can you look at the third paragraph from the</p> <p>24 bottom that starts with, "Paulette-Thurman."</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 238</p> <p>1 parts of your report. Do you recognize this document?</p> <p>2 A. Yes.</p> <p>3 Q. You created this document?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Now, according to this document, which</p> <p>6 I guess is titled Facts and Data contained -- sorry --</p> <p>7 Considered in Expert Report. For Paragraph 39 of your</p> <p>8 report, which we were quoting from earlier, there are</p> <p>9 three sources cited. Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. One is a St. Louis Post-Dispatch article, and</p> <p>12 two are St. Louis Public Radio articles?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. I would like to mark these as Rodden</p> <p>15 Exhibits -- I guess we're at 15, 16 and 17.</p> <p>16 (Whereupon, Rodden Deposition Exhibits 15, 16,</p> <p>17 and 17 were marked for identification.)</p> <p>18 Q. So are those the sources that you cite for the</p> <p>19 proposition that the three candidates made race an</p> <p>20 explicit part of their campaign?</p> <p>21 A. These are the ones I made reference to in the</p> <p>22 document Facts and Data Considered. I said -- what I said</p> <p>23 is I did read some of the media coverage including, and</p> <p>24 these are the ones that I discovered. I was being asked</p> <p>25 to go back and try to remember which media sources I had</p>	<p style="text-align: right;">Page 240</p> <p>1 Q. I'm just going to read this.</p> <p>2 "Paulette-Thurman, a former principal in the district,</p> <p>3 noted that her experience gives her the background to help</p> <p>4 the district. She said that during the furry over McCoy's</p> <p>5 removal, people kept coming up to her saying that somebody</p> <p>6 ought to do something about what was going on. Then she</p> <p>7 said, I said I am somebody and you are somebody, and they</p> <p>8 could be the somebodies who could get things done. On the</p> <p>9 topic of black versus white, she urged people to use the</p> <p>10 word race not as a noun, but as a verb, to make sure they</p> <p>11 move to the polls and voted in April."</p> <p>12 A. I recall the other media source I consulted</p> <p>13 here. It was a blog post written by Dr. Kimball in which</p> <p>14 Dr. Kimball did some analysis of the 2014 election, and</p> <p>15 Dr. Kimball, who is a prominent blogger on St. Louis</p> <p>16 politics, referred to the 2014 election as having a slate</p> <p>17 of candidates who were African-American and who were</p> <p>18 running on a reform-oriented slate related to race. So</p> <p>19 it's possible I misread that article, but I believe it was</p> <p>20 entered into evidence, it might be here. I've read this</p> <p>21 article not very long ago.</p> <p>22 Q. Well, Dr. Rodden, I'm asking about this</p> <p>23 article right now.</p> <p>24 A. You asked me previously -- I'm correcting. I</p> <p>25 made an incorrect answer earlier that I could not</p>

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<p style="text-align: right;">Page 241</p> <p>1 recall --</p> <p>2 Q. Okay.</p> <p>3 A. -- any other media sources, and indeed I</p> <p>4 consulted another media source that probably cannot be</p> <p>5 accessed right now, but it could be rather easily after</p> <p>6 the deposition.</p> <p>7 Q. Okay. But based on this media source which</p> <p>8 you cite in your facts and data considered by you in your</p> <p>9 report, did it sound like Dr. Paulette-Thurman was making</p> <p>10 race an explicit part of her campaign?</p> <p>11 A. No, not in that article. No, not in that</p> <p>12 quote.</p> <p>13 Q. Can we look at Page 4, the next page, and the</p> <p>14 last paragraph here going through to the next page.</p> <p>15 "Long, the spokesman for the Citizens Task Force,</p> <p>16 emphasized that though all three candidates the group</p> <p>17 chose to run for the board are black, does not look at the</p> <p>18 issue as one of race. 'We're running on transparency and</p> <p>19 things like that, he said. It's not Dr. McCoy as a</p> <p>20 personality. It's how Dr. McCoy addressed those issues</p> <p>21 that we stand for. It could have been anyone else. A lot</p> <p>22 of people try to make it a race issue. It's not a race</p> <p>23 issue. Had it been switched around with an all-black</p> <p>24 board and a white superintendent, it could have been the</p> <p>25 same."</p>	<p style="text-align: right;">Page 243</p> <p>1 African-Americans.</p> <p>2 A. The African-American turnout was higher in the</p> <p>3 previous election. It was not that much higher in 2014</p> <p>4 than 2013, but it was -- this was an important moment that</p> <p>5 people paid a lot of attention to.</p> <p>6 Q. The superintendent controversy, that generated</p> <p>7 a level of interest in this election amongst</p> <p>8 African-American voters; you would agree with that, right?</p> <p>9 A. That is my impression, but I was not -- I was</p> <p>10 not there in 2014, but this certainly is the impression I</p> <p>11 get from, again, from communications and from media</p> <p>12 reports.</p> <p>13 Q. And you would agree that's an unusually high</p> <p>14 level of interest amongst African-American voters in the</p> <p>15 2014 election as a result of the superintendent</p> <p>16 controversy, correct?</p> <p>17 A. What I testified was that turnout -- I can</p> <p>18 only testify to the things that I've analyzed in this</p> <p>19 context. I testified that the turnout was somewhat higher</p> <p>20 than 2013, and I have testified that this was a -- that</p> <p>21 the correlation between precinct level race of voting age</p> <p>22 population and precinct level candidate -- votes for</p> <p>23 African-American candidates, that these things -- that</p> <p>24 this increased in the 2014 election. That is what I know</p> <p>25 was unusual about it; that it was -- by that -- by that</p>
<p style="text-align: right;">Page 242</p> <p>1 Does it sound like the spokesman for the task</p> <p>2 force that was behind the slate of candidates that you</p> <p>3 referred to earlier, does it sound like he was making race</p> <p>4 an explicit part of the campaign?</p> <p>5 A. No.</p> <p>6 Q. Now, back to the report, Page 27, Paragraph</p> <p>7 50.</p> <p>8 A. My report?</p> <p>9 Q. Your report, Page 27, Paragraph 50. Three</p> <p>10 lines down there is a sentence that begins, "In the wake</p> <p>11 of the controversial resignation of the superintendent, an</p> <p>12 unprecedented five African-American challengers filed for</p> <p>13 the election."</p> <p>14 So you would agree there was a high level of</p> <p>15 interest among African-Americans in the</p> <p>16 Ferguson-Florissant school district elections in 2014,</p> <p>17 correct?</p> <p>18 A. I testified earlier this morning that the</p> <p>19 turnout -- estimated turnout among African-Americans</p> <p>20 ticked up from the previous election.</p> <p>21 Q. And that's a special circumstance of this</p> <p>22 election that's not present in other elections in the</p> <p>23 Ferguson-Florissant school district?</p> <p>24 A. The increased turnout?</p> <p>25 Q. The high level of interest amongst</p>	<p style="text-align: right;">Page 244</p> <p>1 characterization of polarization, it was a more polarized</p> <p>2 election than others.</p> <p>3 Q. Okay. Let's look back at the worksheet that</p> <p>4 you filled out, Exhibit 13. Now, again, I know that you</p> <p>5 object to the decision rule that we used here, but we</p> <p>6 agree that that decision rule is what we used here, right,</p> <p>7 the statistical significance decision rule?</p> <p>8 A. The rule of thumb related to confidence</p> <p>9 intervals.</p> <p>10 Q. Okay.</p> <p>11 A. Yes.</p> <p>12 Q. We agree with that, right, Dr. Rodden?</p> <p>13 A. That we used that and wrote down the numbers</p> <p>14 that came from that, yes.</p> <p>15 Q. Yes. You don't have any reason to think that</p> <p>16 we applied that decision rule inaccurately when you filled</p> <p>17 out this sheet, do you, Dr. Rodden?</p> <p>18 A. That's right.</p> <p>19 Q. And again, I know you disagree with the</p> <p>20 substance of the decision rule, but just looking at what</p> <p>21 kinds of numbers that decision rule gives us, if you use</p> <p>22 that decision rule, right, how many African-American</p> <p>23 preferred candidates were there in the Ferguson-Florissant</p> <p>24 school district elections dating back to 2000?</p> <p>25 A. 19.</p>

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<p>1 Q. And applying that decision rule, how many of</p> <p>2 those 19 black-preferred candidates were successful?</p> <p>3 A. Seven.</p> <p>4 Q. So fewer than half, correct, Dr. Rodden?</p> <p>5 A. Right.</p> <p>6 Q. And what kind of success rate is that, seven</p> <p>7 divided by 19?</p> <p>8 A. 37 percent.</p> <p>9 Q. Okay. And of those 19 black-preferred</p> <p>10 candidates, I see Knowles and Schroeder in 2009 as the</p> <p>11 only two of those 19 candidates who were white; is that</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. And 2009, correct me if I'm wrong, but that's</p> <p>15 the election where there were no black candidates running</p> <p>16 for office, correct?</p> <p>17 A. Correct.</p> <p>18 Q. Okay.</p> <p>19 A. Yes. We have developed an approach here which</p> <p>20 has led us to -- to exclude any potential -- any potential</p> <p>21 candidates that are not minorities.</p> <p>22 Q. Well, if a white-preferred candidate had</p> <p>23 received -- sorry. Let me start that gain. If a white</p> <p>24 candidate had received support from black voters at a</p> <p>25 statistically significantly higher rate in comparison to</p>	<p>1 A. So two preferred candidates, thank you.</p> <p>2 Q. Right.</p> <p>3 A. 19.</p> <p>4 Q. You are right. And how many of those</p> <p>5 white-preferred candidates were successful?</p> <p>6 A. 18.</p> <p>7 Q. Okay. So using this decision rule, the</p> <p>8 white-preferred candidates are almost always successful,</p> <p>9 correct?</p> <p>10 A. Correct.</p> <p>11 Q. And using this decision rule, if we look at</p> <p>12 the 19 white-preferred candidates, there is not a single</p> <p>13 African-American there, correct?</p> <p>14 A. Yes, because we've applied a decision rule</p> <p>15 that, for instance, causes us to -- causes us not to pay</p> <p>16 attention -- you know, we're not -- the fact that, for</p> <p>17 instance, whites in 2015 split their votes between two</p> <p>18 black candidates, Graves and Hines, and because Graves and</p> <p>19 Hines were too close together in this approach, we were</p> <p>20 not able to identify Graves as a white-preferred</p> <p>21 candidate. So we have applied a decision rule that does</p> <p>22 lead us to that conclusion.</p> <p>23 Q. Okay. Well, we'll look at what we get from</p> <p>24 your decision rules in a minute, Dr. Rodden, but let's</p> <p>25 just stick with this one and we'll get to yours in a</p>
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<p>1 other candidates such that we knew for a fact that that</p> <p>2 candidate, that white candidate, was the second or third</p> <p>3 highest supported candidate amongst black voters, applying</p> <p>4 that decision rule, we would list that white candidate,</p> <p>5 right?</p> <p>6 A. Right. We've applied a decision rule that --</p> <p>7 that excludes -- so in a situation where the -- where the</p> <p>8 votes were split among a number of candidates, we've</p> <p>9 excluded those here. That's the approach we've taken.</p> <p>10 Q. The decision rule doesn't explicitly</p> <p>11 incorporate the race of the candidate in the decision</p> <p>12 rule.</p> <p>13 A. No, it does not. It is a -- it is a way of</p> <p>14 achieving that goal without doing it.</p> <p>15 Q. That's the result of a decision rule, correct,</p> <p>16 Dr. Rodden?</p> <p>17 A. It is.</p> <p>18 Q. Okay. Let's add up, according to this</p> <p>19 decision rule, how many white-preferred candidates there</p> <p>20 have been since the 2000 election.</p> <p>21 A. I have -- in 2012 I have, unfortunately,</p> <p>22 written something that is not legible, so if someone could</p> <p>23 help me with what we decided on, I will take your word for</p> <p>24 it.</p> <p>25 Q. Yeah. I have Ebert and Schroeder in 2012.</p>	<p>1 minute. Is that okay?</p> <p>2 A. Yeah. I wasn't -- yeah, sure.</p> <p>3 Q. Okay. So let's just look at the last 10</p> <p>4 years, right. And I don't mean the last 10 elections, I</p> <p>5 just mean the last decade starting in the 2006 election.</p> <p>6 According to this decision rule, how many black-preferred</p> <p>7 candidates are there?</p> <p>8 A. 12.</p> <p>9 Q. And how many of those 12 candidates were</p> <p>10 successful?</p> <p>11 A. Four.</p> <p>12 Q. So that's about 33 percent; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. And how many white-preferred candidates were</p> <p>15 there in the last decade?</p> <p>16 A. 13.</p> <p>17 Q. And how many of those were successful?</p> <p>18 A. 12.</p> <p>19 Q. Okay. And if we just do the last five years,</p> <p>20 how many black-preferred candidates, according to this</p> <p>21 decision rule, were there?</p> <p>22 A. Eight candidates.</p> <p>23 Q. And how many were successful?</p> <p>24 A. Two.</p> <p>25 Q. That's about 25 percent, correct?</p>

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<p style="text-align: right;">Page 249</p> <p>1 A. Yes.</p> <p>2 Q. And how many white-preferred candidates were</p> <p>3 there in the last five years?</p> <p>4 A. Nine.</p> <p>5 Q. And how many were successful?</p> <p>6 A. Eight.</p> <p>7 Q. And what kind of success rate is that?</p> <p>8 A. It is high.</p> <p>9 Q. Almost 90 percent, right?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Let's look at your decision rule in</p> <p>12 Exhibit 12, or one of your two decision rules. This is</p> <p>13 the one where we just look at the point estimates. If we</p> <p>14 look at the last 15 years worth of elections dating back</p> <p>15 to 2000, you have 27 black-preferred candidates, using</p> <p>16 this decision rule, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And according to my count, and you can double</p> <p>19 check me and tell me if I'm wrong, 17 of those 27</p> <p>20 black-preferred candidates were black; is that right?</p> <p>21 A. I'm sorry. The question is how many of the 27</p> <p>22 black-preferred candidates were black?</p> <p>23 Q. Uh-huh.</p> <p>24 A. I didn't code them on my sheet, so it might</p> <p>25 take a moment.</p>	<p style="text-align: right;">Page 251</p> <p>1 A. Yes.</p> <p>2 Q. Clark is not African-American, right?</p> <p>3 A. Correct.</p> <p>4 Q. Barbara Morris is African-American, that gives</p> <p>5 us 12, right?</p> <p>6 A. Yes.</p> <p>7 Q. Schroeder is not African-American. Henson is</p> <p>8 African-American, that's 13, right?</p> <p>9 A. Yes.</p> <p>10 Q. And Hogshead is not African-American, right?</p> <p>11 A. Correct.</p> <p>12 Q. Paulette, Johnson and Savala are all</p> <p>13 African-American, that's 16, right?</p> <p>14 A. Correct.</p> <p>15 Q. Graves is African-American, that's 17, right?</p> <p>16 A. Right.</p> <p>17 Q. Dameron is not African-American, right?</p> <p>18 A. Correct.</p> <p>19 Q. So we get the same number, 17 out of 27</p> <p>20 minority-preferred candidates are African-American using</p> <p>21 the point estimates to define minority-preferred, correct?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. Now, for white-preferred candidates</p> <p>24 using the point estimates, let's run through this and see</p> <p>25 how many are African-American. In the first row I count</p>
<p style="text-align: right;">Page 250</p> <p>1 Q. Do you want to run through it together?</p> <p>2 A. Yeah, we could do that.</p> <p>3 Q. Okay. Thomas is African-American, that's one,</p> <p>4 right, starting at the top?</p> <p>5 A. Yes.</p> <p>6 Q. Hirsch is not, right?</p> <p>7 A. Okay.</p> <p>8 Q. Butler is African-American, that's two.</p> <p>9 A. Yes.</p> <p>10 Q. Garofalo is not, correct?</p> <p>11 A. Right.</p> <p>12 Q. Graham is African-American, that's three.</p> <p>13 Butler is African-American, that's four, right? Clark is</p> <p>14 not, right?</p> <p>15 A. Right.</p> <p>16 Q. Thomas is African-American, that's five,</p> <p>17 right? Knorr is not. Van and McClendon are both</p> <p>18 African-American, so that brings us to seven, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Thomas and Washington are African-American.</p> <p>21 That brings us to nine, correct?</p> <p>22 A. Correct.</p> <p>23 Q. Knowles and Schroeder are not</p> <p>24 African-American. Graham and Hawkins are</p> <p>25 African-American, so that brings us to 11, correct?</p>	<p style="text-align: right;">Page 252</p> <p>1 Thomas, correct? That's one, right?</p> <p>2 A. Right.</p> <p>3 Q. I count zero in the second row. Zero in the</p> <p>4 third row. Zero in the fourth row. Zero in 2004, the</p> <p>5 next row. Zero in 2006, the next row. Zero in 2009, the</p> <p>6 next row. Zero in 2011, the next row. Zero in 2012, the</p> <p>7 next row. Zero in 2013, the next row. Zero in 2014, the</p> <p>8 next row. And one in 2015, the next row. Is that right,</p> <p>9 Dr. Rodden?</p> <p>10 A. Yes.</p> <p>11 Q. So using one of your decision rules, point</p> <p>12 estimates, two out of 27 white-preferred candidates in the</p> <p>13 last 16 years are African-American, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Turning back to the report, I just have</p> <p>16 a few more questions and then maybe it will be a good time</p> <p>17 for a break. Turning back to your report, on Page 35,</p> <p>18 Paragraph 72, you write, "If we include these five</p> <p>19 uncontested elections, at least one minority-preferred</p> <p>20 candidate was elected in 13 of 16 elections, 81 percent."</p> <p>21 Did I read what you wrote accurately?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And to be clear, this 13 out of 16</p> <p>24 number includes candidates who ascended to office in</p> <p>25 uncontested elections, correct?</p>

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<p style="text-align: right;">Page 253</p> <p>1 A. Yes.</p> <p>2 Q. And it includes the 2007 and 2010 uncontested</p> <p>3 elections where Leslie Hogshead ascended to office, and</p> <p>4 you count her as a black-preferred candidate; is that</p> <p>5 correct?</p> <p>6 A. I believe so, but as we discussed, I don't</p> <p>7 recall, but I believe it's true.</p> <p>8 Q. Okay. Now, the next sentence you write, "If</p> <p>9 we exclude them, this is true of nine of 12 elections."</p> <p>10 Correct? I read that correctly, right, 75 percent?</p> <p>11 A. Yes.</p> <p>12 Q. Now, this nine of 12 figure, this is limited</p> <p>13 to the contested elections, right?</p> <p>14 A. Yes.</p> <p>15 Q. And this statement nine out of 12, makes no</p> <p>16 effort to assign greater probative value to recent</p> <p>17 elections as opposed to older ones, correct?</p> <p>18 A. Correct.</p> <p>19 Q. And this statement makes no effort to</p> <p>20 distinguish among elections with special circumstances</p> <p>21 that might facilitate the victory of a black-preferred</p> <p>22 candidate, correct? It's just a raw number, right?</p> <p>23 A. The -- yeah. Well, the question about special</p> <p>24 circumstances, there are -- we've been going through some</p> <p>25 text where there are paragraphs that discussed various</p>	<p style="text-align: right;">Page 255</p> <p>1 A. Yes.</p> <p>2 Q. And when you say that in nine of 12 elections</p> <p>3 a minority-preferred candidate won, that's using that</p> <p>4 decision rule of using point estimates to ascertain</p> <p>5 whether or not a candidate has minority-preferred status,</p> <p>6 correct?</p> <p>7 A. That's what that sentence refers to. I think</p> <p>8 that's correct.</p> <p>9 Q. Right. So when you say nine out of 12, you're</p> <p>10 talking about the number of elections, and at least one of</p> <p>11 those minority-preferred candidates, as defined by the</p> <p>12 point estimates, is successful, correct?</p> <p>13 A. Yes.</p> <p>14 Q. This nine out of 12, this nine out of 12</p> <p>15 figure, it's not the overall rate at which</p> <p>16 minority-preferred candidates are successful, right?</p> <p>17 A. That's right. I think it -- I think it's</p> <p>18 clear in the text.</p> <p>19 Q. So in a --</p> <p>20 A. Hope it is.</p> <p>21 Q. Yeah. In a three-seat election, if one out of</p> <p>22 the three minority-preferred candidates is successful, the</p> <p>23 way that you're tallying things up here, you would count</p> <p>24 that as an election in which a minority-preferred</p> <p>25 candidate was successful, correct?</p>
<p style="text-align: right;">Page 254</p> <p>1 idiosyncrasies of every election, so I wouldn't say I</p> <p>2 don't discuss any special circumstances. I mean in some</p> <p>3 ways every election is special, but I don't -- I don't</p> <p>4 have a strong story about special elections.</p> <p>5 Q. I just mean this statistic that you're</p> <p>6 quoting, it doesn't try to assign greater value to certain</p> <p>7 elections because of the circumstances, it just treats</p> <p>8 every election equally, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. And -- now, there are multiple seats in</p> <p>11 every election, right?</p> <p>12 A. Yes.</p> <p>13 Q. And in a three-seat election, if we use your</p> <p>14 definition of minority-preferred candidate as the</p> <p>15 candidates with the highest point estimates, there would</p> <p>16 be three minority-preferred candidates in that election,</p> <p>17 correct?</p> <p>18 A. In which election? I'm sorry.</p> <p>19 Q. In a three-seat election.</p> <p>20 A. Any three-seat election?</p> <p>21 Q. Yeah. If we use your decision rule, one of</p> <p>22 your two decision rules of highest point estimates to</p> <p>23 confer preferred-candidate status, that would mean three</p> <p>24 minority-preferred candidates in a three-seat election,</p> <p>25 correct?</p>	<p style="text-align: right;">Page 256</p> <p>1 A. Yes.</p> <p>2 Q. And that's even if two out of three of the</p> <p>3 minority-preferred candidates in that election lose,</p> <p>4 correct?</p> <p>5 A. Yes. Again, I -- when I sat down and wrote</p> <p>6 the report, I tried to present all of the data and just</p> <p>7 provide descriptive statistics with various approaches.</p> <p>8 At the time that I sat down to write the report, these</p> <p>9 are the approaches that, to me, seemed most useful, and</p> <p>10 your characterization of that -- of that particular</p> <p>11 tallying is correct.</p> <p>12 Q. Okay. And to be clear, this tallying makes no</p> <p>13 effort to assess relative levels of support amongst what</p> <p>14 you would describe as black-preferred candidates, highest</p> <p>15 point estimate --</p> <p>16 A. That's right.</p> <p>17 Q. -- second point estimate, they're both treated</p> <p>18 as minority-preferred regardless of the absolute levels of</p> <p>19 support amongst black voters, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And this tally makes no effort to distinguish</p> <p>22 among candidates based on confidence intervals and</p> <p>23 statistical significance, correct?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. Now, on Page 35 still, so we're on the</p>

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<p style="text-align: right;">Page 257</p> <p>1 same page, Paragraph 73, the second to last sentence --</p> <p>2 and we've talked about these two sentences. I just want</p> <p>3 to clarify something about them, but "Of the 37 seats up</p> <p>4 for election since 2000, 20 were won by minority-preferred</p> <p>5 candidates, 54 percent."</p> <p>6 Did I read that correctly?</p> <p>7 A. I would like to read the paragraph to know the</p> <p>8 context here.</p> <p>9 Q. Sure.</p> <p>10 A. Okay. The question again?</p> <p>11 Q. I read that correctly? Okay. The 37 seats up</p> <p>12 for election --</p> <p>13 A. You read it correctly, yes.</p> <p>14 Q. -- since 2000, 20 were won by</p> <p>15 minority-preferred candidates, 54 percent; is that right?</p> <p>16 A. I'm sorry. Yes. I just wanted to make sure</p> <p>17 we're in the same place. Yes. Okay.</p> <p>18 Q. Okay. Great. Now, just to clarify, this</p> <p>19 statement counts on contested elections, right?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And the next sentence, "If we ignore</p> <p>22 the uncontested years, minority-preferred candidates win</p> <p>23 14 of 27 or 52 percent of contested seats for 2000 to</p> <p>24 2015."</p> <p>25 I read that correctly, yes?</p>	<p style="text-align: right;">Page 259</p> <p>1 Q. And it makes no effort to distinguish amongst</p> <p>2 what you describe as black-preferred candidates based on</p> <p>3 confidence intervals, correct?</p> <p>4 A. Correct.</p> <p>5 MR. HO: Cindy, I see you looking at your</p> <p>6 watch. Maybe now is a good time for a break?</p> <p>7 MS. ORMSBY: Whenever.</p> <p>8 MR. HO: Why don't we take a break. We've</p> <p>9 been going for almost two hours, so let's take a break.</p> <p>10 (Whereupon, a recess was taken from 4:48 to</p> <p>11 5:00 P.M.)</p> <p>12 (Whereupon, Rodden Deposition Exhibit No. 18</p> <p>13 was marked for identification.)</p> <p>14 Q. So Dr. Rodden, we talked for a while about one</p> <p>15 of the decision rules that you used for assessing whether</p> <p>16 or not a candidate is a minority-preferred candidate, that</p> <p>17 was the point estimate approach.</p> <p>18 A. Uh-huh.</p> <p>19 Q. And you said that you also propose a second</p> <p>20 decision rule in this report, which is to simply look at</p> <p>21 the top-ranked candidate amongst minority voters and to</p> <p>22 designate that candidate as minority-preferred, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And you described that as an objective</p> <p>25 decision rule that you would accept as a political</p>
<p style="text-align: right;">Page 258</p> <p>1 A. Yes.</p> <p>2 Q. And we established earlier that your</p> <p>3 representation here is incorrect?</p> <p>4 A. That 14 should be changed to a 13.</p> <p>5 Q. Correct.</p> <p>6 A. Right.</p> <p>7 Q. And now that tally, 13 out of 27 is what I'll</p> <p>8 refer to it as now, that makes no effort to assign greater</p> <p>9 probative value to any election or candidate based on how</p> <p>10 recent those elections were, correct?</p> <p>11 A. Correct.</p> <p>12 Q. And it makes no attempt to assess any greater</p> <p>13 probative value to any particular election based on</p> <p>14 whatever circumstances were present in that election,</p> <p>15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. And this statement counts anyone as -- this</p> <p>18 statement counts anyone as minority-preferred based on the</p> <p>19 point estimate decision rule that we discussed earlier,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. It makes no effort to distinguish amongst</p> <p>23 candidates based on their relative levels of support</p> <p>24 amongst black voters, correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 260</p> <p>1 scientist, correct?</p> <p>2 A. Yes.</p> <p>3 Q. I want to show you what's been marked as</p> <p>4 Rodden Exhibit 18, and it's a demonstrative that we</p> <p>5 generated from the data in your report, and I want to go</p> <p>6 over it with you and make sure that this is correct. If</p> <p>7 it's incorrect, I want us to fix it. This lists the</p> <p>8 top-ranked candidates of white voters and the top-ranked</p> <p>9 candidates of black voters, one of the decision rules, the</p> <p>10 decision rules that you say you would accept as a</p> <p>11 political scientist and the one that we just discussed,</p> <p>12 okay?</p> <p>13 A. Yes.</p> <p>14 Q. And I just want to go over the numbers to make</p> <p>15 sure that we have this correct here. So I want to look at</p> <p>16 your Figure 8, or you can use the spreadsheet, Rodden</p> <p>17 Exhibit 11, whatever's easier for you, and I just want to</p> <p>18 make sure we have identified correctly the top</p> <p>19 white-preferred candidates and the top black-preferred</p> <p>20 candidates here, okay?</p> <p>21 So just let me know when you're ready. So</p> <p>22 let's run through the top white-preferred candidates</p> <p>23 starting with the 2000 election. For 2000 I have Hirsch</p> <p>24 as the top white-preferred candidate. Is that correct?</p> <p>25 A. Yes.</p>

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<p>1 Q. And Hirsch is white, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And Hirsch was elected, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. In 2001 I have Garofalo as the top</p> <p>6 white-preferred candidate, according to your estimates,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And Garofalo is white, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And Garofalo was elected, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. In 2002 I have your estimate as</p> <p>14 indicating Fletcher is the top white-preferred candidate,</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. And Fletcher is white, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And Fletcher was elected, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. In 2003, according to your numbers,</p> <p>22 Knorr was the top white-preferred candidate, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And Knorr is white, correct?</p> <p>25 A. Yes.</p>	<p>1 A. Yes.</p> <p>2 Q. And Schroeder was elected in 2009, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And in 2011 I have Martinez as the top-ranked</p> <p>5 white candidate, according to your estimates, correct?</p> <p>6 A. That's correct.</p> <p>7 Q. And Martinez is not black, correct?</p> <p>8 A. That's correct. He's a, as I understand,</p> <p>9 Hispanic-white.</p> <p>10 Q. Okay. And he was elected, correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. In 2012, according to your estimates,</p> <p>13 Ebert was the top white-preferred candidate, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And Ebert is white, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And Ebert was elected, correct?</p> <p>18 A. Yes.</p> <p>19 Q. In 2013 Hogshead was the top-ranked white</p> <p>20 candidate, according to your estimates, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And Hogshead is white, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And Hogshead was elected, correct?</p> <p>25 A. Yes.</p>
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<p>1 Q. And Knorr was elected, correct?</p> <p>2 A. Yes.</p> <p>3 Q. In 2004 I have your estimate as indicating</p> <p>4 that Garofalo was the top white-preferred candidate,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. And we established Garofalo is white, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And Garofalo was elected in 2004, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. In 2006 I have your estimates as</p> <p>12 indicating that Schroeder was the top white-preferred</p> <p>13 candidate, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Schroeder is white, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And Schroeder was elected, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And in 2009, again, I have Schroeder as</p> <p>20 the top white-preferred candidate, right?</p> <p>21 A. Yes.</p> <p>22 Q. And as of 2009, Schroeder was still white,</p> <p>23 correct?</p> <p>24 A. Yes.</p> <p>25 Q. Nothing changed?</p>	<p>1 Q. In 2014 Chabot was, according to your</p> <p>2 estimates, the highest-ranked candidate amongst whites,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. And Chabot is white, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And Chabot was elected, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. In 2015, according to your estimates,</p> <p>10 Ebert was the highest-ranked candidate amongst white</p> <p>11 voters, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And Ebert is white, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And Ebert was elected, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So if we look at the overall success</p> <p>18 rate of the top-ranked candidate amongst white voters</p> <p>19 since 2000, accurate to say that 12 out of 12 of the top</p> <p>20 white-preferred candidates since 2000 were elected?</p> <p>21 A. Yes.</p> <p>22 Q. And accurate to say that 12 out of 12 of those</p> <p>23 candidates, the top-preferred white candidate, all of them</p> <p>24 were white, correct?</p> <p>25 A. Yes.</p>

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<p>1 Q. And if we just limit ourselves to the last 10</p> <p>2 years from the 2006 election on, and we just look at those</p> <p>3 seven elections, the success rate is, of course, the same,</p> <p>4 seven out of seven, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And if we look at just the last five years,</p> <p>7 the success rate for white-preferred candidates defined as</p> <p>8 the top-ranked candidate amongst white voters, success</p> <p>9 rate is five out of five, correct?</p> <p>10 A. Yes.</p> <p>11 Q. So using this decision rule that you employ</p> <p>12 for identifying a preferred candidate, of limiting</p> <p>13 ourselves just to the top-ranked candidate amongst those</p> <p>14 particular voters, the top-ranked white-preferred</p> <p>15 candidate has always been elected in the</p> <p>16 Ferguson-Florissant school district dating back to 2000,</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. And that top-ranked candidate amongst white</p> <p>20 voters has always been white, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And so everything in the column with respect</p> <p>23 to white voters in Rodden Exhibit 18 is correct?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Let's talk about black voters now and</p>	<p>1 A. Correct.</p> <p>2 Q. Butler was not elected, correct?</p> <p>3 A. Correct.</p> <p>4 Q. In 2002 Graham received the most votes,</p> <p>5 according to your estimates, among black voters, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And Graham is African-American, correct?</p> <p>8 A. I just want to make sure I have this right.</p> <p>9 Yes.</p> <p>10 Q. And Graham was elected, correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. In 2003, according to your estimates,</p> <p>13 Thomas received the most support amongst black voters,</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. And Thomas is African-American we established?</p> <p>17 A. Yes.</p> <p>18 Q. And Thomas was elected, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. In 2004 Van received the most support</p> <p>21 amongst black voters, according to your estimates,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. And Van is African-American, correct?</p> <p>25 A. Yes.</p>
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<p>1 their top-ranked candidate. So there's something in here</p> <p>2 in this header that says top-ranked candidate, whites. I</p> <p>3 don't -- that looks like a typo.</p> <p>4 A. Okay.</p> <p>5 Q. Would you just put a line through that?</p> <p>6 A. Certainly.</p> <p>7 Q. Thank you. I appreciate that. So what I'm</p> <p>8 trying to show here is the top-ranked candidates in each</p> <p>9 election amongst black voters as reported by you in your</p> <p>10 ecological inference estimates.</p> <p>11 A. Yes.</p> <p>12 Q. Okay? So let's just run through to make sure</p> <p>13 I have these numbers correct. For 2000 I have Thomas as</p> <p>14 the top-ranked candidate amongst black voters, according</p> <p>15 to your estimates, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And Thomas is black, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And Tomas was elected, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. In 2001, according to your estimates,</p> <p>22 Butler received the most votes amongst black voters,</p> <p>23 correct?</p> <p>24 A. Correct.</p> <p>25 Q. And Butler is African-American, correct?</p>	<p>1 Q. Van was not elected, correct?</p> <p>2 A. Correct.</p> <p>3 Q. In 2006 Gwen Thomas, according to your</p> <p>4 estimates, received the most support amongst black voters,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. And Gwen Thomas was an incumbent that year,</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. And Gwen Thomas is African-American?</p> <p>11 A. Yes.</p> <p>12 Q. And Gwen Thomas was not elected, correct?</p> <p>13 A. Correct.</p> <p>14 Q. In 2009, according to your estimates, Knowles</p> <p>15 received the highest support amongst black voters,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. And Knowles is white, correct?</p> <p>19 A. Correct.</p> <p>20 Q. And Knowles was elected, correct?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. In 2011 the candidate who received the</p> <p>23 highest support amongst black voters, according to your</p> <p>24 estimates, was Graham, correct?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 269</p> <p>1 Q. And Graham was an incumbent that year, 2 correct?</p> <p>3 A. Correct.</p> <p>4 Q. And Graham is African-American, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Graham was not elected; is that correct?</p> <p>7 A. That is correct. She lost by a very small 8 margin.</p> <p>9 Q. Okay. In 2012 the candidate who received the 10 most votes from African-American voters, according to your 11 estimates, was Barbara Morris, correct?</p> <p>12 A. Yes, that's right.</p> <p>13 Q. And she is African-American, correct?</p> <p>14 A. Correct.</p> <p>15 Q. And she was not elected, correct?</p> <p>16 A. Correct.</p> <p>17 Q. In 2013 the candidate who received the most 18 votes amongst African-Americans, according to your 19 estimates, was Henson, correct?</p> <p>20 A. Correct.</p> <p>21 Q. And Henson is African-American, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And Henson was not elected, correct?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. In 2014, according to your estimates,</p>	<p style="text-align: right;">Page 271</p> <p>1 majority of the top-ranked black candidates were 2 unsuccessful?</p> <p>3 A. I want to make sure we're on the same page 4 about 10 years, so --</p> <p>5 Q. Sure.</p> <p>6 A. -- you are referring to elections that took 7 place since 2000 -- which year?</p> <p>8 Q. Starting with 2006.</p> <p>9 A. Including 2006?</p> <p>10 Q. Yes.</p> <p>11 A. Okay. So we've got -- that is correct.</p> <p>12 Q. Okay. And if we just limit ourselves to the 13 last five years, two out of five of the top-ranked black 14 candidates were successful, correct?</p> <p>15 A. That is correct. That's where things get 16 interesting.</p> <p>17 Q. So just looking at the last five years, a 18 majority of the top-ranked candidates amongst black voters 19 were unsuccessful, correct?</p> <p>20 A. By a margin of 125 votes, that is true. 125 21 votes the other way and the answer is no, just to be 22 clear.</p> <p>23 Q. Okay. So the information presented in this 24 demonstrative Rodden Exhibit 18 is accurate, correct?</p> <p>25 A. It is correct, yes.</p>
<p style="text-align: right;">Page 270</p> <p>1 Paulette-Thurman received the most votes from 2 African-American voters, correct?</p> <p>3 A. Correct.</p> <p>4 Q. And Paulette-Thurman is African-American, 5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. And Paulette-Thurman was elected, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. So in 2015, last election here, 10 according to your estimates, Graves received the most 11 votes amongst African-American voters, correct?</p> <p>12 A. Correct.</p> <p>13 Q. And Graves is African-American, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And Graves was elected, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So the overall success rate for the 18 top-ranked candidate amongst African-American voters 19 dating back to 2000 is six out of 12; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And if we just limit ourselves to the success 22 rate over the last 10 years, three out of seven of the 23 top-ranked black candidates were successful, correct?</p> <p>24 A. Correct.</p> <p>25 Q. So fair to say that in the last 10 years a</p>	<p style="text-align: right;">Page 272</p> <p>1 Q. Okay. And just for the record, to close the 2 loop here, of the 12 top-ranked African-American 3 candidates dating back to 2000, only one out of 12 is 4 white, correct? That's Knowles in 2009?</p> <p>5 A. Correct.</p> <p>6 Q. I want to switch to discussing something else, 7 Dr. Rodden.</p> <p>8 A. Okay.</p> <p>9 Q. Could we mark that as Rodden Exhibit 19. 10 (Whereupon, Rodden Deposition Exhibit No. 19 11 was marked for identification.)</p> <p>12 Q. Do you recognize what's been marked as Rodden 13 Exhibit 19?</p> <p>14 A. Yes, I do.</p> <p>15 Q. This is your supplemental report in this case 16 dated July 2nd, 2015, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And in this report, among other things, you 19 respond to a report from plaintiffs' expert, Dr. Dick 20 Engstrom, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And I'm looking at the first page and the 23 second paragraph, and is it accurate to say that you're 24 expressing the view in this paragraph that in the 25 Ferguson-Florissant school district African-Americans are</p>

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<p style="text-align: right;">Page 273</p> <p>1 more likely to vote for African-American candidates and 2 whites are more likely to vote for white candidates? 3 A. I believe that conclusion is difficult to 4 avoid given the exercise we just went through, yes. 5 Q. Given the numbers of your own estimates for 6 candidate support, right, Dr. Rodden, you would agree that 7 African-American voters in the Ferguson-Florissant school 8 district tend to vote for African-American candidates? 9 A. Oh, yes. I was not disputing those. The last 10 exercise we did is one that I -- we have no disagreements 11 about, and indeed, we also saw some scatter plots in the 12 initial report showing that there was a correlation. 13 Q. A correlation between the race of a voter and 14 the race of the candidate, right? 15 A. Yes. 16 Q. So just so the record is clear, 17 African-American voters are more likely to vote for 18 African-American candidates, and white voters are more 19 likely to vote for white candidates in the 20 Ferguson-Florissant school board elections, correct? 21 A. That is correct. The correlation of that kind 22 would be found in really any jurisdiction in the United 23 States in which African-American candidates and white 24 candidates are on the ballot and there are 25 African-Americans and whites in the jurisdiction. I mean</p>	<p style="text-align: right;">Page 275</p> <p>1 did in calculating his, but in terms of the point 2 estimates, we get similar rankings and things like this. 3 I'm sure there are some areas of disagreement that we 4 could talk about perhaps if you like, but on the whole I 5 think your characterization is correct. 6 Q. So fair to say that although your numbers in 7 terms of ecological inference estimates for candidate 8 support are not identical, they are basically consistent 9 with each other? 10 A. I think so. 11 Q. Okay. The difference between your report and 12 Dr. Engstrom's report then, is it fair to say lies not in 13 the numbers, but in your respective interpretations of the 14 numbers; is that fair? 15 A. I believe that's fair. 16 Q. Okay. On Page 11 of this report, Paragraph 17 24, the first sentence you write, "In conclusion, 18 Professor Engstrom's report is correct in pointing out 19 that the highest-ranked candidate among African-Americans 20 and whites in Ferguson-Florissant School Board elections 21 is often different." 22 Did I read what you wrote accurately? 23 A. Yes. 24 Q. And given the exercise that we just undertook, 25 it would be appropriate to say, in fact, that the</p>
<p style="text-align: right;">Page 274</p> <p>1 political scientists know this. This is not an unusual 2 situation. This is a description that we're talking about 3 in the United States of American essentially. 4 Q. Okay. Now, you've reviewed Dr. Engstrom's 5 report in this case, correct? 6 A. Yes. 7 Q. And you've reviewed his ecological inference 8 estimates for candidate support amongst African-American 9 voters and non-African-American voters in the 2011 through 10 2015 elections, correct? 11 A. Yes. 12 Q. You don't dispute his ecological inference 13 estimates in your supplemental report here, do you, Dr. 14 Rodden? I mean you don't say that he's calculated those 15 estimates incorrectly, do you? 16 A. No, and he made a similar statement about 17 mine. We both notice to a degree that is somewhat 18 gratifying, probably for both of us, that the numbers are 19 in the same ball-park. There are some -- you know, when 20 we get down to questions about confidence intervals, I do 21 recall having some questions, and I don't know -- I can't 22 speak with Engstrom. Perhaps when this case is over, I'll 23 get a chance. 24 There are -- some of our confidence intervals 25 look a little different, and I don't know exactly what he</p>	<p style="text-align: right;">Page 276</p> <p>1 highest-ranked candidate among African-Americans and 2 whites in the Ferguson-Florissant School Board elections 3 is always different dating back to at least 2000, correct, 4 Dr. Rodden? 5 A. The top candidate. We're referring to -- let 6 me make sure I read this correctly. Highest-ranked 7 candidate, yes. That's the exercise we just concluded. 8 Q. Right. And I'm talking about Rodden Exhibit 9 18. 10 A. Yes. 11 Q. There's not a single instance in which the top 12 preferred African-American candidate and the top preferred 13 white candidate are the same, correct? 14 A. That's correct. 15 Q. Okay. Now, on this page, Page 11, you have a 16 section that begins with the header Other Elections. Do 17 you see that? 18 A. Yes. 19 Q. And is it accurate to say that in this section 20 of your report you examine voting patterns of voters 21 casting ballots at precincts within the 22 Ferguson-Florissant school district, but for offices other 23 than the Ferguson-Florissant School Board? 24 A. Yes, precisely to circumvent some of the kinds 25 of debates we were just having.</p>

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<p style="text-align: right;">Page 277</p> <p>1 Q. And these are what -- I think we used this 2 term before, what we would call exogenous elections, 3 correct? 4 A. Yes. 5 Q. And your initial report looked only at 6 endogenous elections, the elections for the offices at 7 issue in this litigation, correct? 8 A. Yes. 9 Q. And you would agree, wouldn't you, that 10 endogenous elections are more probative in terms of 11 understanding whether or not voting in the 12 Ferguson-Florissant School Board elections is racially 13 polarized? 14 A. I'm not sure. That is something that will 15 have to be left to the Court to decide. I understand why 16 it would seem, on first glance, like that is the case, but 17 I am afraid that there is a -- there is -- some of the 18 issues we were just discussing are very -- are vexing, and 19 the way in which the number of candidates running and the 20 way in which the number of candidates running from each 21 racial group affects the outcome of the exercises we were 22 just working our way through, does make me think that it's 23 difficult for the Court to wade through that. 24 If the question is simply about whether, based 25 on the demography and the electoral rules and patterns of</p>	<p style="text-align: right;">Page 279</p> <p>1 seemed to be coming to an agreement that all of those 2 approaches had flaws, and I try to be very up-front in my 3 initial report about what those flaws are. And I do 4 regret the -- whatever error it was that caused me to say 5 13 instead of 14 or whatever it was in that report. 6 But when I count up those -- those -- I don't 7 have a whole lot of confidence in the counting exercises 8 that we were just -- we were just looking at, because each 9 of these elections has so many different features that 10 make that causal inference problem really large, and so 11 this is why I wanted to find something simpler. I wanted 12 to find something that we could get our hands around that 13 might allow us to answer that question in a more 14 straightforward way. 15 Q. Now, this approach also has drawbacks, you 16 would agree with me, right, Dr. Rodden? 17 A. Yes. 18 Q. Because voting behavior for offices that cover 19 jurisdictions that are larger than the Ferguson-Florissant 20 school district might differ from voting behavior in the 21 Ferguson-Florissant School Board elections themselves, 22 correct? 23 A. Yes. 24 Q. For instance, it may be the case that voting 25 is not racially polarized with respect to presidential</p>
<p style="text-align: right;">Page 278</p> <p>1 electoral behavior, we can infer that white voters 2 systematically block the choices of African-American 3 voters, then this is a very useful undertaking. So 4 whether the Court would decide that this was less 5 probative, the information is all there and the Court has 6 what it needs to make that decision. I don't need to 7 issue a legal opinion about that. 8 Q. When you first approached the question of 9 racially polarized voting patterns in Ferguson-Florissant 10 School Board elections in your initial report, you looked 11 only at Ferguson-Florissant School Board elections, 12 correct? 13 A. Yes. 14 Q. So correct to say that your first instinct as 15 a political scientist, in trying to assess the question of 16 whether or not voting in the Ferguson-Florissant school 17 district is racially polarized, was to look at endogenous 18 elections? 19 A. That was indeed my first instinct, and the 20 more I grappled with the difficulty of the causal 21 inference problem associated with multi-winner elections 22 when there are different numbers of candidates running 23 from each racial group in each election, the more I 24 realized that the best approach I could come up with 25 within that framework was still flawed. And I think we</p>	<p style="text-align: right;">Page 280</p> <p>1 elections in the Ferguson-Florissant school district, but 2 could be racially polarized with respect to 3 Ferguson-Florissant School Board elections because the 4 issues and offices are different, correct, Dr. Rodden? 5 A. That is possible. 6 Q. Okay. Now, on Page 14 in your report, Table 1 7 which you just turned to, these are all of the exogenous 8 elections that you examined, correct? 9 A. Yes. 10 Q. And there are 12 elections here, correct? 11 A. Yes. 12 Q. And you show that in these 12 elections black 13 candidates received more votes than white candidates from 14 precincts within the Ferguson-Florissant school district 15 in these exogenous elections, correct? 16 A. Correct. 17 Q. And when you examined exogenous elections, you 18 looked only at biracial contests, correct? 19 A. Yes. 20 Q. Elections that involved one black candidate 21 and one white candidate, correct? 22 A. Yes. 23 Q. You didn't include in your analysis of 24 exogenous elections any mono-racial contests, correct? 25 A. That's correct.</p>

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<p style="text-align: right;">Page 281</p> <p>1 Q. Is that because, in your view, biracial 2 contests are more probative than mono-racial contests in 3 terms of assessing racial polarization? 4 A. It was based on my reading of -- of the 5 Gingles decision and previous case law, which admittedly 6 is limited as a political scientist as a non-lawyer. That 7 was my understanding of the way exogenous races had been 8 used in other cases, and it's possible that I'm missing 9 some important cases, but that was my impression, that 10 these are generally considered useful in conditions in 11 which there are candidates of each race running and that 12 is -- those are the conditions that were mentioned in the 13 Gingles decision. 14 Q. Well, just as a political scientist, if you're 15 trying to assess levels of racial polarization, is it your 16 view that biracial contests are more probative of that 17 question than mono-racial ones? 18 A. I wasn't trying to assess racial polarization. 19 That was not the point of Table 1. 20 Q. Okay. So to be clear, Table 1 is not a racial 21 polarization analysis? 22 A. No. 23 Q. Correct, Dr. Rodden? 24 A. That's correct. 25 Q. Okay.</p>	<p style="text-align: right;">Page 283</p> <p>1 A. Given longer deadlines for the reports in this 2 case, absolutely. 3 Q. But you didn't in this case, right? 4 A. I, in truth, did this analysis at -- you know, 5 as these things came together, this is the last thing I 6 did before the deadline, so I had no time to go any 7 further. 8 Q. But based on what we have here, there's no 9 information here that tells us the respective levels of 10 candidate support -- the respective levels of support that 11 these candidates received amongst voters of different 12 races, correct? 13 A. That's correct. 14 Q. Now, of these 12 elections, correct me if I'm 15 wrong, Dr. Rodden, but the black candidate is an incumbent 16 in 10 of them; is that correct? 17 A. We'll have to go through these. 18 Q. Sure. 19 A. So 2008 Barack Obama-Hillary Clinton, no. 20 2008 Barack Obama-John McCain, no. 2008 Lacy Clay, yes. 21 2010 Charlie Dooley, I'm not sure I remember what year 22 Dooley was originally elected. 23 MS. ORMSBY: He was an incumbent. 24 A. In 2010 he was, okay. And then we just have 25 the -- we have the primary and the general, so -- so we</p>
<p style="text-align: right;">Page 282</p> <p>1 A. It is an analysis of the proposition that is 2 central to the Gingles decision, which is that the 3 majority group, by virtue of its status as a majority, 4 with the application of the electoral rules at hand, 5 blocks the -- I'm sorry -- prevents the minority from 6 electing the candidate of its choice. So if the candidate 7 of choosing for minorities wins 100 percent of the time, I 8 find that to be very interesting, very useful, something 9 the Court would want to know. 10 Q. But as you said, this is not a racial 11 polarization analysis. Dr. Rodden, you do not, in this 12 analysis, provide estimates of candidate support by race; 13 is that correct? 14 A. That's correct. 15 Q. This is not like the ecological inference 16 estimates that you provided in your initial report for the 17 Ferguson-Florissant school district elections, correct? 18 A. There is no ecological inference analysis 19 being conducted here, no. 20 Q. And there's no estimate of candidate support 21 amongst voters of different races for each candidate 22 presented here in Table 1, correct? 23 A. That's correct. 24 Q. And you could have performed an analysis of 25 that, right, Dr. Rodden?</p>	<p style="text-align: right;">Page 284</p> <p>1 have -- we have several Clay elections indeed, and Obama 2 is an incumbent in 2012. Dooley in 2014 and -- yes. So 3 we do have some -- a number of incumbents, yes. 4 Q. So just so the record is clear, in 10 out of 5 12 of the exogenous elections that you present here, the 6 black candidate is an incumbent, correct? 7 A. Yes. 8 Q. Okay. Of the two elections featuring 9 non-incumbent black candidates, one was a primary, a 10 democratic primary, and the other was a general featuring 11 a democratic candidate against a republican candidate, 12 correct? 13 A. Correct. 14 Q. Now, you would agree, as a political 15 scientist, that the St. Louis metro area consists 16 primarily of democratic voters, correct? 17 A. Yes. 18 Q. So there's only one election here out of these 19 12 that was a partisan contest of a democrat versus a 20 republican and that did not feature an African-American 21 incumbent, and that's the 2008 presidential general 22 election, correct? 23 A. You're asking if there were any other partisan 24 races that were -- that did not involve incumbents other 25 than Obama and -- in 2008. No, but there were lots of</p>

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<p style="text-align: right;">Page 285</p> <p>1 interesting primaries.</p> <p>2 Q. Right. But only one -- just so that the</p> <p>3 record is clear, there's only one race there that features</p> <p>4 a democrat against a republican in which the</p> <p>5 African-American candidate was a non-incumbent, and that's</p> <p>6 the 2008 presidential, correct?</p> <p>7 A. Correct.</p> <p>8 Q. Now, you don't present any results of</p> <p>9 exogenous elections prior to 2008, correct?</p> <p>10 A. Yes. Again, that was the -- the clock ran</p> <p>11 out. I would have happily done so, but --</p> <p>12 Q. But we don't know what the success rate looks</p> <p>13 like for African-American candidates in exogenous</p> <p>14 elections from 2000 to 2007, correct?</p> <p>15 A. I do not.</p> <p>16 Q. And the exogenous elections you chose here,</p> <p>17 these are all elections for jurisdictions that are larger</p> <p>18 than the Ferguson-Florissant school district, correct?</p> <p>19 A. Yes. That's how this -- the only way to do</p> <p>20 this type of analysis.</p> <p>21 Q. Well, couldn't you choose elections for</p> <p>22 smaller jurisdictions that are either within or overlap</p> <p>23 with the Ferguson-Florissant school district and look at</p> <p>24 the precinct returns for precincts that fall within the</p> <p>25 Ferguson-Florissant school district, so, for instance,</p>	<p style="text-align: right;">Page 287</p> <p>1 In fact, there's even one where the candidate</p> <p>2 lost in the larger jurisdiction. There are others that</p> <p>3 were very close where the incumbent won very comfortably</p> <p>4 in the district, but either came very close in the larger</p> <p>5 jurisdiction or lost in the larger jurisdiction. So for</p> <p>6 that reason, I don't think incumbency is what explains</p> <p>7 these results.</p> <p>8 Q. I would like to mark another of your</p> <p>9 supplemental reports, Dr. Rodden.</p> <p>10 A. Yes.</p> <p>11 Q. I think this is Rodden 20.</p> <p>12 (Whereupon, Rodden Deposition Exhibit No. 20</p> <p>13 was marked for identification.)</p> <p>14 Q. And this is your supplemental report</p> <p>15 concerning the senate factors dated July 2nd, 2015; is</p> <p>16 that correct, Dr. Rodden?</p> <p>17 A. Yes.</p> <p>18 Q. And you recognize this report?</p> <p>19 A. Yes.</p> <p>20 Q. Could we look at Page 5 of the report, and</p> <p>21 Paragraph 11. You reference in this paragraph research</p> <p>22 cited by Dr. Kimball indicating that turnout is lower in</p> <p>23 elections with staggered terms. Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Now, do you have any reason to dispute the</p>
<p style="text-align: right;">Page 286</p> <p>1 mayoral elections for one of the municipalities within the</p> <p>2 Florissant -- Ferguson-Florissant school district?</p> <p>3 A. Then I would have to draw just only</p> <p>4 conclusions about that municipality and I would have a</p> <p>5 hard time -- in fact, I believe other -- again, this is an</p> <p>6 area where I'm not an expert, but I understand that in</p> <p>7 other cases experts have tried to do that and that</p> <p>8 analysis has been rejected. My understanding is that the</p> <p>9 only -- the only acceptable analysis of this kind is to</p> <p>10 use larger jurisdictions. I would have gladly analyzed</p> <p>11 some smaller jurisdictions if I thought that was something</p> <p>12 that the courts might find useful, but again, my</p> <p>13 understanding of case law is that courts do not look</p> <p>14 favorably upon that analysis.</p> <p>15 And I certainly understand your concerns about</p> <p>16 incumbency, but I just would like to point out for the</p> <p>17 record that there are several elections here in which the</p> <p>18 overall election was very close. So if the implication</p> <p>19 here is that incumbents are likely to get very large</p> <p>20 amounts of support and that accounts for this difference,</p> <p>21 that would -- that would only really be -- it only would</p> <p>22 really tell us something if it was the case that the</p> <p>23 incumbent also received a similar overwhelming support in</p> <p>24 the larger jurisdiction, which was not the case for many</p> <p>25 of these.</p>	<p style="text-align: right;">Page 288</p> <p>1 research cited by Dr. Kimball indicating that turnout is</p> <p>2 lower in elections with staggered terms?</p> <p>3 A. In the United States? Yes, that is -- that</p> <p>4 there are some papers with that result.</p> <p>5 Q. Now, have you yourself conducted any research</p> <p>6 on the issue of whether turnout is lower in elections with</p> <p>7 staggered terms?</p> <p>8 A. I want to make sure I'm getting my facts --</p> <p>9 we're only talking about staggered terms right now, not</p> <p>10 off-cycle. We're referring to staggered terms?</p> <p>11 Q. Uh-huh.</p> <p>12 A. This is a -- there's not very much research on</p> <p>13 this, and I certainly -- I have not done any of it.</p> <p>14 Q. Now, continuing on to Page 6, you make</p> <p>15 reference to Dr. Kimball's reference to the absence of</p> <p>16 partisan labels in Ferguson-Florissant school district</p> <p>17 elections, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Now, do you have any reason to dispute the</p> <p>20 research that Dr. Kimball cites indicating that minority</p> <p>21 turnout is higher in elections where the partisan</p> <p>22 affiliation of candidates is indicated?</p> <p>23 A. The question is what is the state of the</p> <p>24 literature on the question of whether minority</p> <p>25 participation is higher in partisan races than</p>

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<p style="text-align: right;">Page 289</p> <p>1 non-partisan races?</p> <p>2 Q. Well, not exactly. You can have a</p> <p>3 non-partisan race where the partisan affiliation of the</p> <p>4 candidate is noted, correct? I guess what I mean is --</p> <p>5 A. I'm not aware of that distinction.</p> <p>6 Q. Well, what I'm saying is you can have -- in</p> <p>7 some elections you have like the republican candidate or</p> <p>8 the republican slate of candidates against the democratic</p> <p>9 candidate or the democratic slate of candidates, right,</p> <p>10 where there's sort of a zero sum between republican and</p> <p>11 democratic candidates, like a head-to-head. You can have</p> <p>12 an election like that, right?</p> <p>13 A. A general election -- I'm sorry. With</p> <p>14 democrats and republicans on the ballot, but there's more</p> <p>15 than one candidate with that party label?</p> <p>16 Q. Sorry. It's getting late and I'm a little --</p> <p>17 I'm not being clear.</p> <p>18 A. In California with the top-two system --</p> <p>19 Q. California is totally different.</p> <p>20 A. Yes.</p> <p>21 Q. Yeah. I'm talking about, you know, most</p> <p>22 people are familiar with general elections where there is</p> <p>23 an office and there's one republican candidate and one</p> <p>24 democratic candidate vying against each other, right?</p> <p>25 A. In the general.</p>	<p style="text-align: right;">Page 291</p> <p>1 A. I'm not -- I just want to make sure I</p> <p>2 understand. You're asking if I've heard of an electoral</p> <p>3 system in which several democrats are allowed on the same</p> <p>4 ballot?</p> <p>5 Q. Uh-huh.</p> <p>6 A. And several republicans, and yes, that would</p> <p>7 be the top-two primary system in California. So in the</p> <p>8 primary we would end up -- they end up with several</p> <p>9 republicans and several democrats on the ballot. They</p> <p>10 each would have a D or an R next to their name. So yes,</p> <p>11 sometimes -- yeah, an open primary is another way to think</p> <p>12 about it.</p> <p>13 Q. And you have seen research that indicates that</p> <p>14 minority turnout tends to be higher in those kinds of</p> <p>15 elections when the partisan affiliation of the candidate</p> <p>16 is clearly identified as opposed to when the candidates'</p> <p>17 party affiliations is not identified, correct?</p> <p>18 A. I don't know that research. It's possible</p> <p>19 such research exists, but I don't know of it.</p> <p>20 Q. And you haven't conducted any research on that</p> <p>21 issue, correct?</p> <p>22 A. No, that's right.</p> <p>23 Q. In the next paragraph, Paragraph 12, you</p> <p>24 reference Professor Kimball's discussion of labor union</p> <p>25 endorsements, correct?</p>
<p style="text-align: right;">Page 290</p> <p>1 Q. Yes.</p> <p>2 A. In most states.</p> <p>3 Q. Or one candidate from each party, you could</p> <p>4 have --</p> <p>5 A. Not Louisiana, but we can --</p> <p>6 Q. You could have the democratic candidate, the</p> <p>7 republican candidate, the libertarian candidate, the green</p> <p>8 party candidate --</p> <p>9 A. Yes. Yeah.</p> <p>10 Q. -- and there's one from each party?</p> <p>11 A. Yes.</p> <p>12 Q. And it's sort of like a zero sum. You're</p> <p>13 going to either vote for the republican candidate or the</p> <p>14 democratic candidate or the Green Party candidate, right?</p> <p>15 A. Uh-huh.</p> <p>16 Q. Now, there are other elections where there's</p> <p>17 no limit on the number of candidates from any particular</p> <p>18 party. You just have a pool of candidates and there's a</p> <p>19 partisan affiliation identified with the candidate, so</p> <p>20 it's not republican against democrat against green against</p> <p>21 libertarian, it's just candidates all against each other,</p> <p>22 and there might be five democrats and two republicans and</p> <p>23 three greens or something like that where all you're doing</p> <p>24 is identifying the party affiliation of the candidate.</p> <p>25 Have you heard of that?</p>	<p style="text-align: right;">Page 292</p> <p>1 A. Yes.</p> <p>2 Q. And one of the things that you say we need to</p> <p>3 know is the number of African-American candidates who have</p> <p>4 applied for union endorsements in the Ferguson-Florissant</p> <p>5 school district, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And have you conducted any investigation of</p> <p>8 the number of African-American candidates who have applied</p> <p>9 for labor union endorsement?</p> <p>10 A. No.</p> <p>11 Q. Another thing you say we ought to know is</p> <p>12 whether white and African-American candidates express</p> <p>13 similar levels of agreement with unions policy agendas,</p> <p>14 correct?</p> <p>15 A. Yes. I'm imaging that if I'm the person or</p> <p>16 the body in charge of making decisions about union</p> <p>17 endorsements, I want candidates who have the same ideas</p> <p>18 about teacher pay and classroom size and so forth.</p> <p>19 Q. Now, you didn't conduct any investigation of</p> <p>20 whether or not white and African-American candidates in</p> <p>21 the Ferguson-Florissant school district express similar</p> <p>22 levels of agreement with the teachers union's policy</p> <p>23 agenda, did you?</p> <p>24 A. No.</p> <p>25 Q. You mention another factor here that's</p>

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<p style="text-align: right;">Page 293</p> <p>1 relevant which is whether African-Americans are involved 2 in making decisions about union endorsements, correct? 3 A. Correct. 4 Q. And did you conduct any research or 5 investigation of whether African-Americans are involved in 6 the making of decisions about labor union endorsements in 7 the Ferguson-Florissant school district? 8 A. No. 9 Q. Did you conduct any research whatsoever into 10 how the labor unions in the Ferguson-Florissant school 11 district go about making their endorsements? 12 A. No. 13 Q. Now, turning to Page 8 of this report, 14 Paragraph 17, the last sentence, you reference a statistic 15 that African-American incumbents won 70 percent of the 16 time. Am I understanding you correctly? 17 A. I need to get the context. Can you give me a 18 moment, please? 19 Q. Sure. Take your time. 20 A. Yes. So I was responding to -- I'm sorry. 21 I'll let you ask the question. 22 Q. Right. So you're saying here that 23 African-American incumbents won 70 percent of the time in 24 Ferguson-Florissant School Board elections, correct? 25 A. Yes, and --</p>	<p style="text-align: right;">Page 295</p> <p>1 -- it's a bit like taking a very popular member of 2 congress who never attracts challengers and saying that 3 that person was never re-elected. 4 Q. So let's talk about Doris Graham for a moment, 5 if you don't mind. 6 A. Sure. 7 Q. Do you still have Rodden Exhibit 18? 8 A. Somewhere. 9 Q. Now, Doris Graham was never the top-ranked 10 candidate amongst white voters, correct? 11 A. Correct. 12 Q. And in -- can we look at Exhibit 12 which 13 applies your decision rule using point estimates -- 14 A. Sure. 15 Q. -- to ascertain candidate-preferred status. 16 A. Uh-huh. 17 Q. Doris Graham was never a white-preferred 18 candidate, using the point estimates; is that correct? 19 A. She was not amongst the top two for whites in 20 the two-candidate elections, and she was not among the top 21 three for whites in the three-candidate election. My 22 memory would suggest she came very close a couple of 23 times, but yes, the answer to your question is yes. 24 Q. So let's look at Page 10 of your supplemental 25 report here, Dr. Rodden, and I'm looking at Paragraph 20</p>
<p style="text-align: right;">Page 294</p> <p>1 Q. Wait. Maybe I misspoke. 2 A. I tried to be clear about what I was doing 3 here, which is that -- and if this is controversial, then 4 we can have discussion about it, but I viewed an incumbent 5 who did not attract a challenger and who retained their 6 position in office, I view them as a re-elected incumbent, 7 as -- in fact, technically that's what they are in 8 Ferguson-Florissant. They do not print the ballots and 9 run the election in order to save money, but they are 10 re-elected, it's my understanding of how they -- how it's 11 considered. 12 Q. Right. So this 70 percent figure, this 13 includes African-American candidates who ascended to 14 office in -- 15 A. Yes, because if we take -- I'm sorry. 16 Q. Let me finish. In an uncontested election, 17 correct? 18 A. Yes, because if we take -- if we take Doris 19 Graham and we ignore the times when she is re-elected 20 without a challenger, this was a very popular board member 21 who is known in the community, did not attract 22 challengers, it really gives us a rather, from my mind, 23 wrong inference if we calculate an incumbency re-election 24 rate in which we throw out all of the elections in which 25 someone doesn't attract a challenger. So it's a bit like</p>	<p style="text-align: right;">Page 296</p> <p>1 which continues from the previous page. In the -- so I'll 2 read the sentence. "While whites continue to use zoning, 3 all-out resistance to school desegregation, and other 4 tools to perpetuate desegregation elsewhere in St. Louis, 5 advocates of desegregation were victorious in North St. 6 Louis County and its municipalities became the most 7 racially integrated in St. Louis." 8 Did I read what you wrote correctly? 9 A. Yes. 10 Q. And you have a footnote here, and for your 11 citation to -- for your support for this proposition, and 12 that is your blog post in the Washington Post that we 13 discussed earlier today, correct? 14 A. Yes. 15 Q. And just so I understand, is your blog post 16 the citation that you are using to support the proposition 17 that North County municipalities are the most racially 18 integrated in St. Louis? 19 A. Yes. 20 Q. And as we discussed earlier, that blog post 21 compares levels of racial integration in North County 22 municipalities like Ferguson to other municipalities in 23 the St. Louis metro area, correct? 24 A. Yes. 25 Q. It does not compare the level of integration</p>

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<p style="text-align: right;">Page 297</p> <p>1 in North County municipalities to areas outside of St. 2 Louis, correct? 3 A. That's correct. 4 Q. And in this paragraph you are not drawing any 5 comparison to the level of integration in North County St. 6 Louis to areas outside of St. Louis, correct? 7 A. I would be happy to provide additional 8 information about similar data for other communities. In 9 fact, I have done such analysis. The communities of North 10 St. Louis are integrated by any standard in the United 11 States. 12 Q. Okay. But you didn't present any comparative 13 estimates of the levels of racial integration in North 14 County in any of your reports to similar municipalities 15 outside of the St. Louis area, correct, Dr. Rodden? 16 A. That's correct. But again, I would be happy 17 to conduct that analysis in the future if it would be 18 useful to the Court. 19 Q. Page 11 in your report contains a Figure 1, 20 and am I correct that this figure depicts black and white 21 household income in relation to distance from the city 22 center in metro St. Louis? 23 A. Yes. 24 Q. And no matter how far you get between zero and 25 40 kilometers -- well, I'm sorry. Let me back up. When</p>	<p style="text-align: right;">Page 299</p> <p>1 areas with relatively low income, correct? 2 A. One can only communicate so many things in a 3 map. It would be too messy to include that, yes. 4 Q. But we don't know that from looking at this 5 map, the percentage of African-Americans who live in 6 higher income areas as opposed to the percentage who live 7 in lower income areas, correct? 8 A. The map does not communicate that, that's 9 correct. 10 Q. And it doesn't communicate relative 11 differences between African-Americans and whites in terms 12 of who lives in -- what percentage of those groups lives 13 in higher income as opposed to lower income areas, 14 correct? 15 A. That's correct. However, the variation in 16 population density across census block groups in 17 Ferguson-Florissant is not all that great. I mean a 18 reader would need to know where the airport is and would 19 want to make sure they didn't get confused about that, but 20 beyond that, I think one can scan back and forth, and the 21 vast majority of the space of the district is taken up 22 with single family houses. There are a few spots in which 23 there are apartment complexes, and those are actually 24 discussed in the text, but for the most part, when one 25 looks at this map, discounting the airport, one can make</p>
<p style="text-align: right;">Page 298</p> <p>1 you get from zero to 40 kilometers away from the city 2 center, as a general matter, I know there's some downward 3 slope early on, but as a general matter, income rises for 4 both whites and blacks; is that correct? 5 A. Yes. 6 Q. But regardless of how far away you get from 7 the city center of St. Louis, there is always an income 8 gap between blacks and whites, correct? 9 A. Unfortunately, that is the case. 10 Q. And, roughly, do you know how far away 11 Ferguson-Florissant is from the city center? 12 A. I would have to guess, and I don't want to 13 guess under oath. 14 Q. That's okay. If you don't know, that's okay. 15 A. Yeah. 16 Q. Now, let's look at Page 12, Figure 2, median 17 household income for African-American and white 18 households. 19 A. Yes. 20 Q. Now, just to be clear, these two maps do not 21 account for population density; is that correct? 22 A. That's correct. 23 Q. So we don't know, looking at these two maps, 24 how many African-Americans are in the areas with roughly 25 higher income and how many African-Americans are in the</p>	<p style="text-align: right;">Page 300</p> <p>1 useful comparisons and realize that they're not 2 misunderstanding where the human beings are, if that's the 3 problem. 4 Q. On page -- can we turn to Page 16 of your 5 report, and I'm looking at Paragraph 32. The second 6 sentence in your report represents that median household 7 income for African-Americans in the Ferguson-Florissant 8 school district is lower than white median household 9 income by about \$14,000 per year; is that correct? 10 A. That's correct. That is -- but I should be 11 clear. This is based on aggregate household income for 12 the school district. As the map makes clear, there are 13 lots of block groups, especially integrated neighborhoods 14 in Florissant, where the income has converged and there's 15 very little difference. 16 Q. Let's look at Page 17, Figure 3. This reports 17 various gaps between blacks and whites on certain 18 socioeconomic factors, correct? 19 A. Yes. 20 Q. And within the Ferguson-Florissant school 21 district, you agree that blacks have a lower rate than 22 whites of attaining a bachelor's degree, correct? 23 A. Yes. 24 Q. And within the Ferguson-Florissant school 25 district, you agree that blacks have a higher poverty rate</p>

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<p style="text-align: right;">Page 301</p> <p>1 than whites, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And you agree that within the</p> <p>4 Ferguson-Florissant school district, blacks have a higher</p> <p>5 rate than whites of being a SNAP or food stamps recipient,</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. And you agree that within the</p> <p>9 Ferguson-Florissant school district, blacks have a higher</p> <p>10 unemployment rate as compared to whites, correct?</p> <p>11 A. Correct.</p> <p>12 Q. I want to go back to something we talked about</p> <p>13 earlier, Dr. Rodden. I don't have very much left today,</p> <p>14 but I just want to clarify something, and that's what we</p> <p>15 labeled Rodden Exhibit 9. This was the spreadsheet with</p> <p>16 the population figures corresponding to, I think, Figure 3</p> <p>17 in your report. Just let me know when you have that and</p> <p>18 you're ready to discuss that.</p> <p>19 A. I have it. Okay.</p> <p>20 Q. All right. So we discussed the fact that the</p> <p>21 fifth line down is what you're reporting as the voting age</p> <p>22 population in 2012 using the ACS estimates, correct, Dr.</p> <p>23 Rodden?</p> <p>24 A. Yes.</p> <p>25 Q. And after 2012, starting with 2013, sixth row</p>	<p style="text-align: right;">Page 303</p> <p>1 voting age, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And the column black 18-plus is the column for</p> <p>4 black alone voting age individuals in the</p> <p>5 Ferguson-Florissant school district, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And what you're reporting here for the most</p> <p>8 recent year that is not a projection, the year 2012, is</p> <p>9 that there are 24,313 blacks of voting age population in</p> <p>10 the Ferguson-Florissant school district, correct?</p> <p>11 A. Yes, correct.</p> <p>12 Q. And the third category of people is at the</p> <p>13 very back of this spreadsheet under Other 18-plus, that</p> <p>14 column, correct? These are people who are neither white</p> <p>15 alone nor black alone, correct?</p> <p>16 A. Correct.</p> <p>17 Q. And you report 956 individuals of voting age</p> <p>18 population within that category, correct?</p> <p>19 A. In my initial report, yes, and I would want</p> <p>20 to --</p> <p>21 Q. Sure. Now, the information presented here</p> <p>22 which your initial report is based on --</p> <p>23 A. Yes.</p> <p>24 Q. -- doesn't allow us to ascertain how many</p> <p>25 people in this Other 18-plus category are part</p>
<p style="text-align: right;">Page 302</p> <p>1 down, those are your projections based on the ACS,</p> <p>2 correct, Dr. Rodden?</p> <p>3 A. Yes.</p> <p>4 Q. And that's also true for 2013, it's based on</p> <p>5 projections, correct? Sorry. That should say 2014,</p> <p>6 shouldn't it?</p> <p>7 A. Yeah. The ACS with a center year of 2014.</p> <p>8 Q. And that's based on your projections from the</p> <p>9 ACS, correct?</p> <p>10 A. I just want to be clear I'm making sense here.</p> <p>11 Q. The second to last row. That should say 2014.</p> <p>12 A. Yeah. That is a projection for the year 2014.</p> <p>13 Q. Right. And 2015, that's your projection for</p> <p>14 the year 2015, correct?</p> <p>15 A. Yes.</p> <p>16 Q. So the most recent year represented on this</p> <p>17 spreadsheet that is not a projection is the year 2012,</p> <p>18 correct?</p> <p>19 A. Correct.</p> <p>20 Q. And we explained, I think, that the column</p> <p>21 white 18-plus is the voting age population for people who</p> <p>22 are white alone, correct?</p> <p>23 A. Correct.</p> <p>24 Q. And for 2012 the most recent year that is not</p> <p>25 a linear projection of your own, it's 23,740 whites of</p>	<p style="text-align: right;">Page 304</p> <p>1 African-American, correct?</p> <p>2 A. Not directly.</p> <p>3 Q. Okay. So there's no information directly in</p> <p>4 this chart that tells us how many people of voting age</p> <p>5 population are part black, correct?</p> <p>6 A. No. That inference is drawn in my</p> <p>7 supplemental report, not my initial report.</p> <p>8 Q. Right. And we'll get to your supplemental</p> <p>9 report in a second.</p> <p>10 A. Okay.</p> <p>11 Q. Let's just talk about what's presented here.</p> <p>12 A. Uh-huh.</p> <p>13 Q. According to the 2012 ACS -- sorry. According</p> <p>14 to your representation of what the voting age population</p> <p>15 looks like in 2012, right, which is based on the ACS</p> <p>16 rather than a linear projection --</p> <p>17 A. Uh-huh.</p> <p>18 Q. I've stated that correctly so far, right, Dr.</p> <p>19 Rodden?</p> <p>20 A. Only that it's not just 2012, it's the 2011 to</p> <p>21 2013 sample.</p> <p>22 Q. But it's based on --</p> <p>23 A. Same year as 2012 --</p> <p>24 Q. Right.</p> <p>25 A. So I think we're okay.</p>

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<p style="text-align: right;">Page 305</p> <p>1 Q. What you represent as the voting age 2 population of the Ferguson-Florissant school district in 3 2012 is based on data from the American Community Survey, 4 correct? 5 A. Yes. 6 Q. And what you represent as the voting age 7 population after 2012, 13, and beyond, is based on your 8 linear projections of the ACS, correct? 9 A. Yes. 10 Q. And if we look at what you report as the 11 voting age population of the Ferguson-Florissant school 12 district in 2012, I believe your testimony earlier was 13 that a minority of the population, that is less than 50 14 percent of the voting age population, consisted of 15 individuals who were black alone, correct? 16 A. I believe we came up with a 49.8 or something 17 like that, so yes. 18 Q. Okay. And we don't know, of the remaining 19 individuals, based on what you present here, how many of 20 those individuals might be part African-American, correct, 21 Dr. Rodden? 22 A. From my initial report no information is 23 provided about that, in my initial report. 24 Q. Okay. So the ACS data does not directly tell 25 us how many voting age individuals in the</p>	<p style="text-align: right;">Page 307</p> <p>1 population who are mixed race or other in the 2 Ferguson-Florissant school district in 2012 are part 3 African-American, correct, Dr. Rodden? 4 A. We do not have a direct measure of that, but 5 we have ample opportunity to estimate and that's the best 6 we can do. 7 Q. Right. So you try to estimate this in your 8 supplemental report in response to Mr. Cooper's report, 9 correct, Dr. Rodden? 10 A. Yes. 11 Q. And I believe that was marked yesterday as 12 Chen Exhibit A, which should be to your left over there on 13 top. 14 A. I might ask if this might be a good time for a 15 break for others. I don't know how much longer we have -- 16 Q. We don't have much, but we do have some, so, 17 you know, I probably have about 30 minutes more. We can 18 take a break now or we could just power through, whatever 19 you all prefer. 20 MS. ORMSBY: What do you prefer? 21 A. I would prefer a very short break just for the 22 restroom. 23 (Whereupon, a recess was taken from 6:00 to 6:05 24 P.M.) 25 Q. I want to ask you about Chen Exhibit A, which</p>
<p style="text-align: right;">Page 306</p> <p>1 Ferguson-Florissant school district are part 2 African-American, correct? 3 A. It does not directly tell us that, that is 4 correct. 5 Q. Okay. So the only direct information that we 6 have from the ACS is that as of 2012, using the three-year 7 estimate, individuals who are black alone are a minority 8 of the voting age population of the district, and we don't 9 know anything about how many individuals who are 10 multi-race or other are African-American, correct? 11 A. They fall short of -- single race 12 African-Americans fall short of majority status by a very 13 small number of individuals. We do know -- we do have an 14 estimate of the number of people who are in the -- in the 15 other category, and we do know that the majority of them 16 are some part African-American. 17 Q. Well, that's not presented directly -- 18 A. That's correct. 19 Q. -- in the census data? 20 A. We know that from other -- we know that from 21 other -- from the overall population, not from the age 22 breakdowns. 23 Q. Right. We don't know any direct information 24 from the age breakdowns how many of the voting age 25 population -- what number of people of voting age</p>	<p style="text-align: right;">Page 308</p> <p>1 is the supplemental report that you and Dr. Chen 2 co-authored in response to Professor Cooper's report in 3 this case, okay? 4 A. Yes. 5 Q. And for the record, this is your report dated 6 July 2nd, 2015? 7 A. Correct. 8 Q. And you signed it, right, Dr. Rodden? 9 A. Yes. 10 Q. Okay. Now, I want to ask you about Page 4, 11 Table 1. 12 A. Yes. 13 Q. Now, this table presents some data -- 14 MS. ORMSBY: I'm sorry. Can I -- what are we 15 on? I lost it there for a second. 16 MR. HO: Oh, sure. It's Chen Exhibit A. This 17 is the supplemental report. We provided you with a copy 18 of it yesterday. 19 MS. ORMSBY: I wasn't here yesterday, so I 20 don't have a copy of it. 21 MS. GABEL: I'll look and -- 22 MS. ORMSBY: I'm sorry. 23 MR. HO: No, it's okay. I didn't bring an 24 extra one for today. I hadn't planned on talking about 25 it. That's it.</p>

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<p style="text-align: right;">Page 309</p> <p>1 MS. ORMSBY: I'm sorry. I probably have that</p> <p>2 in my folder. I didn't know what I was looking at.</p> <p>3 MR. HO: That's okay. Can we continue?</p> <p>4 MS. ORMSBY: Yes, please.</p> <p>5 Q. Great. So I'm looking at Page 3, Table 1, and</p> <p>6 in this table you present some information about the</p> <p>7 voting age population of the Ferguson-Florissant school</p> <p>8 district, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Now, some of the numbers in this table come</p> <p>11 directly from the American Community Survey, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And some of these numbers are your estimates</p> <p>14 based on census data, correct?</p> <p>15 A. Yes. I detail that in the rather lengthy</p> <p>16 note, yes.</p> <p>17 Q. So I just want to unpack it, because it took</p> <p>18 me a little while to understand it.</p> <p>19 A. Oh, I'm -- yes, I'm sure.</p> <p>20 Q. But I think I understand it now. When you</p> <p>21 report the white alone voting age population in row two of</p> <p>22 this report as 23,740, that comes directly from the</p> <p>23 American Community Survey, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And in line four where you report the voting</p>	<p style="text-align: right;">Page 311</p> <p>1 report by the American Community Survey, correct, Dr.</p> <p>2 Rodden?</p> <p>3 A. Not directly. It comes from an application of</p> <p>4 the -- it comes from an effort to understand what the</p> <p>5 share of that other category is someone who is reporting</p> <p>6 more than one race and one of those is African-American,</p> <p>7 is an attempt to break down the other category, because</p> <p>8 the breakdowns were insufficiently detailed for the task</p> <p>9 at hand in 2013 over 18 population, it seemed like a very</p> <p>10 good assumption to imagine that the over-18 population is</p> <p>11 not different in that breakdown as the overall population.</p> <p>12 In other words, I made the assumption that the</p> <p>13 voting age population and the overall population had</p> <p>14 roughly similar breakdowns of people reporting more than</p> <p>15 one race who are part African-American. I assumed that</p> <p>16 those things were similar, and I had no strong reason to</p> <p>17 think that they were not.</p> <p>18 Q. Okay. So let's unpack this for a second just</p> <p>19 so I understand. You took the total population of</p> <p>20 individuals who are in that Other category, and by total</p> <p>21 population I mean individuals from, you know, the age of</p> <p>22 zero to whatever, not just the voting age population, and</p> <p>23 you were able to ascertain the percentage of those</p> <p>24 individuals who are part African-American, correct?</p> <p>25 A. That is available in the -- in the ACS, yes.</p>
<p style="text-align: right;">Page 310</p> <p>1 age population of individuals identifying as</p> <p>2 African-American alone as 24,313, that also comes directly</p> <p>3 from the American Community Survey, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Now, in line nine where you report the number</p> <p>6 of people who are two or more races and some part</p> <p>7 African-American and you report that number as 681 people</p> <p>8 of voting age population, that number does not come</p> <p>9 directly from the American Community Survey, correct?</p> <p>10 A. That is correct, but from the last discussion</p> <p>11 we were having about the initial report, we focused on</p> <p>12 that final column which was Other 18-plus, and we talked</p> <p>13 about the last number in that column that was from -- that</p> <p>14 was not projected, that was from the ACS, and that number</p> <p>15 was 956. So this number here adds up to 956, so this --</p> <p>16 yes.</p> <p>17 Q. Your estimate of that 956 other individuals of</p> <p>18 voting age population who are neither black alone nor</p> <p>19 white alone, your estimate is reported here as 681 of</p> <p>20 those individuals are some part African-American, correct,</p> <p>21 Dr. Rodden?</p> <p>22 A. Yes.</p> <p>23 Q. And again, that 681 figure of people, of</p> <p>24 voting age population who are two or more races and some</p> <p>25 part African-American, that does not come directly from a</p>	<p style="text-align: right;">Page 312</p> <p>1 Q. Right. And you took that percentage of all</p> <p>2 people, regardless of age, who are two or more races and</p> <p>3 some part African-American, and you applied that</p> <p>4 percentage to the voting age population of individuals who</p> <p>5 are two or more races to get your best estimate of what</p> <p>6 percentage of those voting age individuals are some part</p> <p>7 African-American, correct, Dr. Rodden?</p> <p>8 A. That's correct.</p> <p>9 Q. Okay. It is possible, is it not, Dr. Rodden,</p> <p>10 that there may be more in terms of percentage multi-race</p> <p>11 individuals who are -- let me start that again.</p> <p>12 It may be the case that those two percentages</p> <p>13 are not identical, right, Dr. Rodden; that there may be a</p> <p>14 larger percentage of multi-race individuals who are part</p> <p>15 African-American below the age of 18 as there are</p> <p>16 multi-race individuals who are part African-American above</p> <p>17 the age of 18; that's certainly possible, right, Dr.</p> <p>18 Rodden?</p> <p>19 A. I thought a lot about it, and it's possible,</p> <p>20 but given that we know the number for the overall</p> <p>21 population, it's not as if we only knew the number for the</p> <p>22 under-18 population. We know the overall population, so</p> <p>23 the likelihood that the shares of these groups in the</p> <p>24 overall population and the over-18 population is radically</p> <p>25 different, given that the over-18 population is the</p>

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<p style="text-align: right;">Page 313</p> <p>1 majority of the population, then it seems unlikely, but I</p> <p>2 will admit that it is -- it is -- I can't imagine what the</p> <p>3 demographic story would be, but it's possible that the</p> <p>4 demography of mixed race people is extremely unusual in</p> <p>5 the Ferguson-Florissant district.</p> <p>6 Q. Well, I'm not talking about</p> <p>7 Ferguson-Florissant school district specifically. I just</p> <p>8 mean you don't know, do you, whether or not mixed race</p> <p>9 individuals as a group, there are greater percentage of</p> <p>10 them who are part African-American below the age of 18 as</p> <p>11 opposed to above the age of 18, right, Dr. Rodden? You</p> <p>12 don't have any information one way or the other on that</p> <p>13 question, correct?</p> <p>14 A. That is the area where I made an assumption,</p> <p>15 and that assumption certainly can be criticized, but it</p> <p>16 should be criticized with some -- if we're going to back</p> <p>17 away from the conclusion that this group is overwhelmingly</p> <p>18 -- this other group is overwhelmingly part</p> <p>19 African-American, we would need to base that on something.</p> <p>20 Q. Have you looked at any statistics on whether</p> <p>21 or not, you know, interracial marriage is increasing in</p> <p>22 this country, Dr. Rodden?</p> <p>23 A. I have not looked at specific statistics, but</p> <p>24 I -- that's one of the things I thought about. It does</p> <p>25 seem -- does seem plausible that the rates of</p>	<p style="text-align: right;">Page 315</p> <p>1 -- as opposed to --</p> <p>2 Q. White-Asian union.</p> <p>3 A. Well, there are so few individuals in these</p> <p>4 other categories in the Ferguson-Florissant school</p> <p>5 district, that I don't think that's an important concern.</p> <p>6 It is the case that -- but when we look at -- and we have</p> <p>7 data on people who are some other race -- I'm sorry. We</p> <p>8 have data in Table 1 on people who are two or more races,</p> <p>9 some part African-American, and two or more races who are</p> <p>10 no part African-American, and the breakdown is 1,564 to</p> <p>11 632, so the overwhelming majority of these people are --</p> <p>12 who are reporting more than one race have African-American</p> <p>13 as one of the races.</p> <p>14 If the question is about whether some of those</p> <p>15 African-Americans are married to non-whites, I'm not sure</p> <p>16 how that affects the inferences I'm drawing.</p> <p>17 Q. Okay. Well, just to be clear on this table,</p> <p>18 there's no official government data that directly tells us</p> <p>19 that African-Americans are a majority of the voting age</p> <p>20 population of the Ferguson-Florissant school district,</p> <p>21 right, Dr. Rodden? It's -- it's -- the way you get there</p> <p>22 is by either your linear projections for 2013 and beyond,</p> <p>23 or your 2012 estimate for how many of the mixed race</p> <p>24 individuals in the American Community Survey are part</p> <p>25 African-American, correct, Dr. Rodden?</p>
<p style="text-align: right;">Page 314</p> <p>1 intermarriage are increasing.</p> <p>2 Q. And if the rates of intermarriage are</p> <p>3 increasing, that would mean more mixed race people -- that</p> <p>4 mixed race individuals would sort of cluster towards the</p> <p>5 younger end of the age spectrum, correct, Dr. Rodden?</p> <p>6 A. That's exactly the scenario that I've thought</p> <p>7 about and that is plausible.</p> <p>8 Q. And have you looked at whether or not rates of</p> <p>9 interracial marriage differ in terms of which -- members</p> <p>10 from which groups are marrying across racial lines; that</p> <p>11 is, you know, Asian or Hispanic, if we take Hispanic to be</p> <p>12 a racial group, and white and black, whether or not</p> <p>13 interracial marriage rates are higher or lower for any of</p> <p>14 those groups?</p> <p>15 A. In the United States or in</p> <p>16 Ferguson-Florissant?</p> <p>17 Q. Either.</p> <p>18 A. I would think Ferguson-Florissant would be the</p> <p>19 relevant situation for us to talk about, and so have I --</p> <p>20 have I thought about or collected information about</p> <p>21 whether rates of intermarriage are changing over time in a</p> <p>22 differential way across racial groups, so --</p> <p>23 Q. Uh-huh. That's my question.</p> <p>24 A. So that might it be the case that -- that</p> <p>25 there are more African-American-white unions as opposed to</p>	<p style="text-align: right;">Page 316</p> <p>1 A. Correct. My estimate is based on census data.</p> <p>2 It is not based on some other data. It is merely based on</p> <p>3 the use of data for the overall population of the</p> <p>4 assumption that it -- that we can extract from that the</p> <p>5 voting age population that is any part African-American.</p> <p>6 Q. But you agree with me, right, Dr. Rodden, that</p> <p>7 there is no census data, decennial or ACS data, that</p> <p>8 directly tells us that African-Americans are a majority of</p> <p>9 the voting age population of the Ferguson-Florissant</p> <p>10 school district, correct?</p> <p>11 A. There's no -- there's no direct measure</p> <p>12 because of a missing cell in the 2013 ACS data.</p> <p>13 Q. And when you arrive at your conclusion that</p> <p>14 African-Americans are a majority of the voting age</p> <p>15 population in the Ferguson-Florissant school district, you</p> <p>16 do that based on your linear projections and what's</p> <p>17 presented in Table 1 of your supplemental report with Dr.</p> <p>18 Chen where you estimate the percentage of mixed race</p> <p>19 individuals of voting age who are African-American,</p> <p>20 correct?</p> <p>21 A. That is correct.</p> <p>22 Q. Okay. I just want to move to one last topic,</p> <p>23 Dr. Rodden. I want to show you something, and let's mark</p> <p>24 it as -- I'm sorry. What number are we at?</p> <p>25 COURT REPORTER: 21.</p>

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<p style="text-align: right;">Page 317</p> <p>1 Q. Rodden Exhibit 21. 2 (Whereupon, Rodden Deposition Exhibit No. 21 3 was marked for identification.) 4 Q. Do you recognize this, Dr. Rodden? 5 A. I do. 6 Q. This is from a research project that you 7 conducted with Dr. Kyle Dropp at Dartmouth and your 8 colleague at Stanford, Adam Bonica, correct? 9 A. Correct. 10 Q. Now, I'm going to refer to that research 11 project as the Montana flyer project, okay? 12 A. Okay. 13 Q. Now, judicial elections in Montana are 14 non-partisan, correct? 15 A. Correct. 16 Q. And this flyer that you and your partners in 17 your research project created purports to provide 18 information about Montana Supreme Court candidates in 19 terms of their ideology or partisanship, correct? 20 A. It provides information based on their 21 campaign finance collection. 22 Q. Well, you rank the candidates in this flyer as 23 more liberal or more conservative and closer to Barack 24 Obama or Mitt Romney, correct? 25 A. Based on the fact that their donor base is</p>	<p style="text-align: right;">Page 319</p> <p>1 kind of information about the ideology or partisanship of 2 candidates might make voters more likely to cast a ballot 3 for those particular offices? 4 A. Yes. It's what we refer to as ballot 5 roll-off. We -- our hypothesis was that ballot roll-off 6 would be decreased by providing information about 7 candidate placement. 8 Q. So -- 9 A. Ideological placement. 10 Q. So as a political scientist, your view before 11 conducting this experiment was giving voters information 12 about the, you know, ideological leanings of a candidate 13 would make voters more likely to cast a ballot in the 14 elections for which those candidates are running, correct? 15 A. That was a hypothesis that is -- that exists 16 in the literature that we know very little about, which is 17 why we did the study. 18 Q. Do you have an opinion, prior to conducting 19 this study, one way or the other, as to whether or not 20 that kind of ideological information about candidates 21 would be more or -- would be more likely to make voters 22 participate in that election? 23 A. It was a hypothesis drawn from literature as 24 something that is a kind of folk wisdom that we thought we 25 would test. I don't -- if I have to get back and try to</p>
<p style="text-align: right;">Page 318</p> <p>1 further or closer to one of these -- one of these national 2 candidates who can all be placed on the same scale, and 3 this is done by my colleague, Adam Bonica, through 4 analysis of all of the FEC filings. 5 Q. Okay. So just so I understand, you took 6 publicly-available information about campaign 7 contributions, and on that basis, placed Montana Supreme 8 Court candidates on a scale of more liberal or more 9 conservative or more like Barack Obama or more like Mitt 10 Romney, correct? 11 A. Correct. 12 Q. Okay. And am I correct that you wanted to 13 determine if this information guide, if sending it to 14 voters, had an effect on voter behavior? Is that correct, 15 Dr. Rodden? 16 A. We wanted to understand that particular aspect 17 of voter behavior which is that when one fills out a 18 ballot which has many races on it, there is a tendency for 19 people to skip the offices about which they have no 20 information, and we were interested in knowing whether 21 providing information about the candidates' campaign 22 finance activities was something that would encourage more 23 people to fill out their ballot. 24 Q. So am I correct that the hypothesis that you 25 were testing with this research project was whether this</p>	<p style="text-align: right;">Page 320</p> <p>1 remember what level of confidence did I have in the 2 likelihood that we would get a result, I -- that's why we 3 do the analysis. 4 Q. Well, do you have an opinion today, sitting 5 here, as to whether or not this kind of information about 6 the ideological leanings of candidates in a non-partisan 7 race is likely to increase voter participation in that 8 particular race? 9 A. Well, as you may know, this project has gone 10 off the rails and we have not been able to analyze the 11 data that would allow us to draw a firm conclusion. So I 12 have not updated my initial kind of open-mindedness and 13 questioning attitude about this hypothesis. 14 Q. Okay. This flyer bears the official seal of 15 the State of Montana, correct, Dr. Rodden? 16 A. Unfortunately, it does. 17 Q. You did not work with the State of Montana on 18 this project, correct? 19 A. No, I did not. 20 Q. You did not receive permission from the State 21 of Montana before using this official seal from the State 22 of Montana, correct? 23 A. That's correct. 24 Q. Okay. I would like to show you one last 25 exhibit. We'll mark it as Rodden 22.</p>

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<p style="text-align: right;">Page 321</p> <p>1 (Whereupon, Rodden Deposition Exhibit No. 22 2 was marked for identification.) 3 Q. Have you seen this document before, Dr. 4 Rodden? 5 A. Yes, I have. 6 Q. This is a decision by the Commissioner of 7 Political Practices of the State of Montana in the matter 8 of McCulloch v. Stanford and Dartmouth, correct? 9 A. I'm not sure what the correct name is for this 10 document. You referred to it as a -- again? 11 Q. A decision or a written opinion by the 12 Commissioner of Political Practices of the State of 13 Montana. Does that look correct to you, Dr. Rodden? Is 14 that what you understand this to be? 15 A. It is titled here Decision Finding, Sufficient 16 Facts, so yes. 17 Q. Okay. And it's in the matter of McCulloch v. 18 Stanford and Dartmouth, correct? 19 A. Yes. 20 Q. And this decision concerns your Montana flyer 21 project, correct? 22 A. Yes. 23 Q. And is it your understanding that the 24 Commissioner of Political Practices of Montana, among 25 other things, monitors and enforces campaign practices and</p>	<p style="text-align: right;">Page 323</p> <p>1 ideology? 2 A. We -- in an effort to avoid affecting the 3 election result, we attempted to target precincts that we 4 had reason to believe were offsetting in their ideological 5 leanings. 6 Q. So just to be clear, you thought that it was 7 possible that this would increase voter turnout with 8 mailing this flyer, correct? 9 A. Yes. 10 Q. And you tried to send some of these flyers to 11 what you thought were liberal-leaning precincts and some 12 flyers that you thought were to conservative-leaning 13 precincts because you didn't want to affect the outcome of 14 the election, correct, Dr. Rodden? 15 A. Yes. 16 Q. And you sent the flyer to more voters living 17 in what you thought were liberal-leaning precincts because 18 you thought turnout from those precincts would be lower; 19 is that right, Dr. Rodden? 20 A. Based on the information we had, yes. 21 Q. How did you make that assessment of whether or 22 not a precinct was liberal-leaning or 23 conservative-leaning, and how did you decide how many 24 flyers to send to the liberal-leaning precincts as opposed 25 to the conservative-leaning precincts?</p>
<p style="text-align: right;">Page 322</p> <p>1 campaign finance practices in the State of Montana? 2 A. I'm not fully aware of the -- his full job 3 description, but that sounds about like -- my 4 understanding is that's a good description of it. 5 Q. And this decision is titled Decision Findings, 6 Sufficient Facts to Demonstrate a Violation of Montana's 7 Campaign Practice Laws, correct? 8 A. Yes. 9 Q. Okay. Now, I want to turn to Page 7 of this 10 decision, and under the header B labeled "The Flyers were 11 election related documents." The first sentence states, 12 "The Montana Flyer Project caused 102,780 postcard mailers 13 or flyers to be sent to registered voters in the State of 14 Montana." 15 Did I read that correctly? 16 A. Yes. 17 Q. So your research involved sending the flyer 18 that was marked as Rodden Exhibit 21 to over 100,000 19 registered voters in the state of Montana, correct? 20 A. Correct. 21 Q. And they represent about 15 percent of the 22 electorate in Montana; is that right? 23 A. Yes. 24 Q. And am I correct that you attempted to target 25 voters on the basis of your assessment of their likely</p>	<p style="text-align: right;">Page 324</p> <p>1 A. You're asking for some details of research 2 design that are not at the top of my mind right now. 3 Q. If you don't recall, that's perfectly fine. 4 A. I know that we used data -- the first question 5 was how did we make that ascertainment, how did we decide 6 which precincts were liberal and which ones were 7 conservative. We did that using some data that we 8 received. This was some data that Kyle Dropp received 9 that an aggregate score based on, I believe, past 10 precinct-level election results and voter registration 11 data, but I can't -- I can't recall what other things that 12 might have gone into that index. 13 Q. Could you look at Page 5 here, and I'm looking 14 at the second paragraph, and it reads, "The Commissioner 15 determines that Montana Flyer Project impacted the lives 16 of Montanans through its impact on voting by 102,780 17 Montana voters. There is a process by which universities 18 and colleges are supposed to review or vet institutional 19 studies that have an impact on human beings. This 20 process, called the Institutional Review Board (IRB) 21 process, is defined by federal laws and administered by 22 agency located within the US Department of Health and 23 Human Services." 24 Did I read that accurately? 25 A. Yes.</p>

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1 Q. Now, we established at the beginning of this
2 deposition, didn't we, Dr. Rodden, that you're familiar
3 with the ethical standards governing political science
4 research, correct?

5 A. Yes.

6 Q. And that includes what's referred to here as
7 the IRB process, correct?

8 A. Yes.

9 Q. And specifically as a political scientist, you
10 are supposed to engage in the IRB process before engaging
11 in research involving human subjects; is that correct?

12 A. Yes. There was -- there was some
13 misunderstandings about the multi-institutional aspect of
14 this project, and there has been a process at Stanford of
15 trying to understand and trying to come to grips with the
16 importance of approaching the IRB process separately at
17 every institution that is involved in a multi-institution
18 project.

19 A norm had developed, a period of time -- over
20 time many more projects have become multi-institutional
21 collaborations, often with many institutions involved. A
22 norm had developed whereby people started to use only one
23 institution, started to approach the IRB to only one
24 institution. This is something that, unfortunately, many
25 of my colleagues in the social sciences had been doing,

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1 Q. You did not engage the IRB process at Stanford
2 prior to conducting this Montana flyer research project,
3 correct?

4 A. For the reasons that I just described, yes.

5 Q. And Professor Dropp did not submit the final
6 version of this flyer to the Dartmouth IRB, correct?

7 A. He received an exemption for the project, and
8 the understanding of an exemption is that when there are
9 changes to the design of something like an instrument,
10 those changes did not need to be submitted for approval.

11 That was the understanding. That was the
12 pretty clear understanding of what exemption means. The
13 previous mock-up of the -- of the flyer was something that
14 had been produced on PowerPoint on one of our computers
15 and was visually rather unappealing, so that thing was
16 sent to a designer to improve the appearance of it, and it
17 is through that process in the beautification, if you
18 will, of the flyer that the seal was included.

19 Q. Right. And the version with the seal was not
20 presented to the Dartmouth IRB, correct?

21 A. It was not, but it is not clear to me that
22 that is a violation of the protocol when it is an
23 exemption.

24 Q. Well, the decision says that the Dartmouth IRB
25 process was improperly engaged and ignored at Stanford; is

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1 and we had come to the misunderstanding that that was --
2 that getting IRB either exemption or approval from one
3 institution was sufficient, and we -- we learned the hard
4 way that this is not viewed as sufficient.

5 So we misunderstood the procedure for
6 approaching IRB when multiple institutions are involved,
7 and I've been part of an effort at Stanford to help make
8 clear to future researchers that, at least at Stanford,
9 the expectation is that the IRB will be approached at
10 every university, even if there are several universities
11 involved in a project.

12 Q. Now, the next sentence in this decision is,
13 "The IRB process, however, was improperly engaged by the
14 Dartmouth researcher and ignored completely by the
15 Stanford researchers."

16 Did I read that accurately?

17 A. Yes. And it is not my understanding that -- I
18 don't know fully -- I'm not fully up to date on the
19 investigation at Dartmouth, but it is not my understanding
20 that Dartmouth has made a determination that the IRB was
21 inappropriately -- improperly engaged, but I'm not
22 entirely sure.

23 Q. Now, you're one of the Stanford researchers
24 referenced in this sentence, correct?

25 A. Yes.

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1 that correct?

2 A. That is the assertion on Page 5, and I don't
3 know whether that is correct.

4 Q. Do you dispute the Commissioner's decision
5 here?

6 A. Do I dispute the totality of the decision,
7 absolutely.

8 Q. No. What the Commissioner has written in his
9 decision that I quoted to you earlier about the IRB
10 process being improperly engaged.

11 A. I stated that I -- that I don't know. I don't
12 know what the internal -- that is a decision -- again,
13 this is something that I don't know the answer to, but
14 this is an assertion about a Dartmouth conclusion, and I'm
15 saying I don't know. I just have not been in touch with
16 anyone at the IRB at Dartmouth to know what their
17 conclusion was about it. I've not -- if that is the case,
18 I've not heard that.

19 Q. Have you been in touch with anyone at the IRB
20 at Stanford as to whether or not your failure to obtain
21 IRB approval before conducting the Montana flyer project
22 was consistent with the university's guidelines?

23 A. Yes. We had a meeting --

24 Q. What did you learn?

25 A. We had a meeting with the IRB at which they

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<p style="text-align: right;">Page 329</p> <p>1 notified us that, in fact, in a multi-institutional</p> <p>2 project it is necessary to receive IRB approval or</p> <p>3 exemption from Stanford in addition to other institutions,</p> <p>4 clarified our misunderstanding of the procedures.</p> <p>5 Q. Okay. And just so the record is clear, you</p> <p>6 didn't obtain that approval from the Stanford IRB,</p> <p>7 correct, before engaging in the Montana flyer project?</p> <p>8 A. That's correct.</p> <p>9 Q. Okay. Could you turn to Page 18 of this</p> <p>10 decision, and I'm looking at what's labeled Sufficiency</p> <p>11 Finding No. 2, and it states, "The Commissioner determines</p> <p>12 that there are sufficient facts to show that the language</p> <p>13 and images sent out in the Montana flyer constitute 2014</p> <p>14 election-related express advocacy by Stanford and</p> <p>15 Dartmouth as well as by Professors Kyle Dropp, Adam Bonica</p> <p>16 and Jonathan Rodden."</p> <p>17 Did I read that correctly?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And can we turn to Page 21. I would</p> <p>20 like to read Sufficiency Finding No. 3. "The Commissioner</p> <p>21 determines that there are sufficient facts to show that</p> <p>22 Stanford, Dartmouth and/or its researchers violated</p> <p>23 Montana Campaign Practice laws requiring registration,</p> <p>24 reporting and disclosure of independent expenditures."</p> <p>25 Did I read that correctly?</p>	<p style="text-align: right;">Page 331</p> <p>1 justifying civil prosecution under Section 13-37-124 MCA."</p> <p>2 Because of the nature of violations (the failure to</p> <p>3 register, report and disclose occurred in Lewis and Clark</p> <p>4 County), this matter is referred to the County Attorney of</p> <p>5 Lewis and Clark County for his consideration as to</p> <p>6 prosecution."</p> <p>7 Did I read that correctly?</p> <p>8 A. Yes.</p> <p>9 Q. So the decision of the Commissioner of</p> <p>10 Political Practices of the State of Montana is that there</p> <p>11 is sufficient evidence for civil or criminal prosecution</p> <p>12 as a result of the Montana flyer project, correct?</p> <p>13 A. That is what this document states.</p> <p>14 Q. And it was referred to the County Attorney of</p> <p>15 Lewis and Clark County for that purpose, correct?</p> <p>16 A. It was referred to that prosecutor and that is</p> <p>17 the last communication that I have received from anyone in</p> <p>18 Montana.</p> <p>19 Q. And you -- it's also correct, isn't it, that</p> <p>20 in this decision -- I'm not going to bother reading it</p> <p>21 all, unless you would like me to read it into the record,</p> <p>22 that the Commissioner found that there was a violation of</p> <p>23 the Montana Impersonation Statute arising from your use of</p> <p>24 the official state seal of Montana on this flyer?</p> <p>25 A. That was one of the claims that was especially</p>
<p style="text-align: right;">Page 330</p> <p>1 A. Yes. I would add that Stanford strongly</p> <p>2 objects to all of these claims.</p> <p>3 Q. Okay. But the Commissioner's decision here,</p> <p>4 and specifically it's Sufficiency Finding No. 3, is a</p> <p>5 reference to you, that in the Commissioner's finding you</p> <p>6 violated Montana Campaign Practice laws requiring</p> <p>7 registration, reporting and disclosure of independent</p> <p>8 expenditures, correct?</p> <p>9 A. The statement reads, "The Commissioner</p> <p>10 determines that there are sufficient facts to show that</p> <p>11 Stanford, Dartmouth and/or its researchers violated</p> <p>12 Montana Campaign Practice laws requiring registration,</p> <p>13 reporting and disclosure of independent expenditures."</p> <p>14 Yes, it does say that.</p> <p>15 Q. That's a reference to you, correct?</p> <p>16 A. When it says and/or its researchers, that is a</p> <p>17 reference to myself and my two co-authors.</p> <p>18 Q. Okay. Can we look at Page 25 of this</p> <p>19 decision, and the first full paragraph here, the first</p> <p>20 sentence reads, "Because there is a finding of violation</p> <p>21 and a determination that de minimis and excusable neglect</p> <p>22 theories are not applicable, civil/criminal prosecution</p> <p>23 and/or a civil fine is justified (See Section 13-37-124</p> <p>24 MCA). The Commissioner hereby, through this decision,</p> <p>25 issues a "Sufficient Evidence" Finding and Decision</p>	<p style="text-align: right;">Page 332</p> <p>1 interesting.</p> <p>2 Q. But that's what the Montana Commissioner</p> <p>3 found, right, that there was a violation of the</p> <p>4 Impersonation Statute?</p> <p>5 A. Yes. It was something that is a little</p> <p>6 difficult to -- it's -- the legal theory is difficult to</p> <p>7 understand.</p> <p>8 Q. Now, as a result of all of this, all of these</p> <p>9 proceedings around your Montana flyer project, the</p> <p>10 presidents of Stanford and Dartmouth signed an open letter</p> <p>11 jointly to voters and citizens of Montana apologizing for</p> <p>12 the Montana flyer project; is that correct?</p> <p>13 A. Yes. The Commissioner, in the moment when the</p> <p>14 flyers first went out and there was a -- the affair was in</p> <p>15 the public eye, the Commissioner asked the universities to</p> <p>16 produce such a letter and provided some of the content for</p> <p>17 that letter and made it clear that that would be</p> <p>18 considered in any future proceedings, so that is the</p> <p>19 origin of that letter.</p> <p>20 Q. And --</p> <p>21 A. I should say that the -- there had been other</p> <p>22 communications from the university since then that have</p> <p>23 strongly opposed this document and taken issue with the</p> <p>24 claims made in this document.</p> <p>25 Q. But the letter from the presidents of</p>

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<p style="text-align: right;">Page 333</p> <p>1 Dartmouth and Stanford, that's appended to this decision?</p> <p>2 A. Yes.</p> <p>3 Q. Correct?</p> <p>4 A. Yes.</p> <p>5 Q. And the presidents of Dartmouth and Stanford,</p> <p>6 at the end of the first paragraph write, "We genuinely</p> <p>7 regret that it was sent and we ask Montana voters to</p> <p>8 ignore the mailer."</p> <p>9 Did I read that accurately?</p> <p>10 A. Yes.</p> <p>11 Q. And this letter was mailed out to Montana</p> <p>12 voters at a cost of over \$50,000; is that your</p> <p>13 understanding?</p> <p>14 A. That sounds right.</p> <p>15 Q. So as a result of your -- and Stanford covered</p> <p>16 the -- footed the bill for that, correct?</p> <p>17 A. Yes.</p> <p>18 Q. So Stanford incurred a cost of about \$50,000</p> <p>19 with an apology for your Montana flyer project, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. Could we just pause for a minute and go</p> <p>22 off the record? I just want to make sure. I think we're</p> <p>23 done, but I just want to go over my notes really quickly.</p> <p>24 MS. ORMSBY: Fine.</p> <p>25 MR. HO: I don't think I have anything else.</p>	<p style="text-align: right;">Page 335</p> <p>1 plans produced by Mr. Cooper.</p> <p>2 Q. Okay. And --</p> <p>3 A. Let me say a little bit more just to be clear</p> <p>4 about what we were -- how we should read these things.</p> <p>5 This was the kind of -- imagine -- we're trying to imagine</p> <p>6 a hypothetical scenario in which Mr. -- Mr. Cooper's</p> <p>7 districts were used to conduct elections. And so in order</p> <p>8 to do that, we think about a districting plan in which</p> <p>9 elections are held in a year, and there are seven</p> <p>10 districts. There are seven districts being contested, so</p> <p>11 all seven seats are up and we're trying to figure out who</p> <p>12 would win those seats.</p> <p>13 Q. Okay. So let me clarify. So when we look at</p> <p>14 these numbers, look at 2000, and what you did is you took</p> <p>15 Cooper's plan -- Cooper has as Illustrative Plan 1 and 2,</p> <p>16 but this is only -- we're only looking at No. 2 right now,</p> <p>17 and Mr. Cooper divides the district up into seven</p> <p>18 districts, correct?</p> <p>19 A. Correct.</p> <p>20 Q. And when you did your chart here, you did not</p> <p>21 assume staggered terms, correct? You assumed that all</p> <p>22 seven of those districts had an election each of those</p> <p>23 years between 2000 and 2015?</p> <p>24 A. From Mr. Cooper's report, that was our</p> <p>25 understanding of the -- of the way he was proposing those</p>
<p style="text-align: right;">Page 334</p> <p>1 MS. ORMSBY: All right. May we have a few</p> <p>2 minutes?</p> <p>3 MR. HO: Sure.</p> <p>4 (Whereupon, a recess was taken from 6:42 to</p> <p>5 7:12 P.M.)</p> <p>6 * * * * *</p> <p>7 CROSS EXAMINATION,</p> <p>8 QUESTIONS BY MS. ORMSBY:</p> <p>9 Q. Okay. I'm going to try and keep this as brief</p> <p>10 as possible. We've all been here a long time. Okay. I</p> <p>11 am going to show you what we was previously -- if you</p> <p>12 could pull out, was it your report, is that Chen 1? Is</p> <p>13 that right, A, Chen A?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. If you could get Chen A, please, Chen</p> <p>16 Exhibit A, and turn to Page 8. Can you explain what this</p> <p>17 table is, please?</p> <p>18 A. Yes. We had -- we had used a statistical</p> <p>19 model to attempt to understand the number of elections</p> <p>20 that -- the number of districts that would be won by</p> <p>21 African-American candidates based on -- based on turnout</p> <p>22 analysis from the past. So we were attempting to</p> <p>23 understand how many districts would be won by</p> <p>24 African-American candidates under the hypothetical plan</p> <p>25 introduced by Mr. Cooper, by both of the hypothetical</p>	<p style="text-align: right;">Page 336</p> <p>1 electoral districts to operate; that they were to be used</p> <p>2 in an election in which seven seats were simultaneously</p> <p>3 contested.</p> <p>4 Q. But that's not how elections are held,</p> <p>5 correct? In 2000 there were not seven seats up for</p> <p>6 election?</p> <p>7 A. Oh. In the actual school board election, no.</p> <p>8 In an actual school board election, as we've been</p> <p>9 discussing all day today, there would be either two or</p> <p>10 three seats contested at a time.</p> <p>11 Q. Okay. So I'm going to hand you what was</p> <p>12 previously marked as Chen F, but I would like to mark this</p> <p>13 as Defendants' Q, please.</p> <p>14 A. Is this for me?</p> <p>15 Q. No. Hand it to the court reporter. Hand her</p> <p>16 the top copy. Sorry.</p> <p>17 A. Okay.</p> <p>18 (Whereupon, Defendants' Exhibit Q was marked</p> <p>19 for identification.)</p> <p>20 Q. All right. So Professor Chen was asked to</p> <p>21 fill in this chart yesterday. I would like you to fill it</p> <p>22 out today. If we looked at what really happened in 2000,</p> <p>23 and we can look at -- just look at one of the exhibits</p> <p>24 that we filled out today. Let's look at Exhibit 11, and</p> <p>25 going to the 2000 election -- or if you want something</p>

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1 **else to tell you just who won the election that year.**

2 A. Okay. So we want to figure out the -- the
3 number of successful African-American candidates. So the
4 task here is presumably to compare the column on the left
5 with the column on the right in a sensible way, and in
6 order to do that, we need to know the share of the seats
7 that were up in the 2000 election. We need to compare
8 that with the share of the seats that were up in this
9 hypothetical single member district election.

10 So in 2000 we know that -- let's see. I
11 wonder if we have a place where we know all the winners,
12 where we have all the winners very clear. I think perhaps
13 Exhibit 18 would be a good one to look at.

14 **Q. How about --**

15 A. So in 2000 --

16 MR. HO: 12 may give you a sense of the
17 winners. It's not obvious from the face of it, but --
18 well, in some cases it's obvious.

19 A. Okay. So let's --

20 MR. HO: I mean there might be some years
21 where you need to look at the report.

22 A. So 2000, I think -- and hopefully people can
23 chime in if I get something wrong. So Thomas was -- is an
24 African-American candidate who was successful in 2000, so
25 that's one. In -- yes. And so what I'm going to do is

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1 I'm going to express this -- the way to make this
2 comparison is we've got one-third over here, one-seventh
3 over here. 2001 we've got -- we've got Butler who is
4 African-American candidate, we say here choice, but winner
5 -- sorry. The winner in 2001, just need to know who won.

6 MR. HO: I think it's Garofalo and Hogshead.

7 A. Okay. So zero out of three.

8 **Q. Two.**

9 A. Out of two, sorry. Here we've got zero out of
10 seven. 2002 we have, I believe, Doris Graham was
11 victorious in 2002; is that correct? So that would be one
12 out of -- I think that was a -- was that a three-candidate
13 election in 2002?

14 **Q. 2002 was a three-candidate election.**

15 A. Okay. So that's --

16 **Q. Go back up to 2000 which was a two-candidate
17 election.**

18 A. Oh, so I've got that wrong. So one out of --
19 one divided by two in 2000. So in 2002 one divided by
20 three. In 2003 it's -- it is Thomas, so it's one divided
21 by three. So 2004, I think we agreed --

22 **Q. Wait a minute. 2000 --**

23 A. 2002. I'm sorry. 2002 should be one divided
24 by --

25 **Q. No.**

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1 A. 2003 is --

2 **Q. Slow down. Slow down.**

3 A. 2003 is one divided by two.

4 **Q. 2003 there was two candidates up, so one out
5 of two, correct?**

6 A. That's correct.

7 **Q. 2004, two candidates were up for election, so
8 what was the result in 2004? Garofalo and Hogshead won.**

9 A. Yeah, zero African-Americans, so zero out of
10 two.

11 **Q. And there was no election in 2005?**

12 A. So 2006 it is --

13 **Q. It's a two-person election.**

14 A. There were zero African-American candidates
15 elected, so zero divided by two. On the other side is
16 zero divided by seven. So then in 2009 it's zero divided
17 by --

18 **Q. 2009 was a two-person election.**

19 A. Two, and then over here we have one divided by
20 seven. 2011 --

21 **Q. Three-person election.**

22 A. So zero divided by three, zero divided by
23 seven. 2012 is a --

24 **Q. Two-person election.**

25 A. -- two-person election. It is zero divided by

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1 two, and two divided by seven. 2013, it is --

2 **Q. Two-person election.**

3 A. Zero divided by two, or two divided by seven.
4 So in 2014 it is --

5 **Q. Three-person election.**

6 A. One divided by three compared to two divided
7 by seven. And 2015 it is one divided by two compared with
8 one divided by seven. So we would then need to -- we
9 could then, if we wanted to do something to characterize
10 the overall relationship, we could either express -- we
11 can express these as a proportion, which would be the --
12 perhaps the most visually useful thing to do, so -- so
13 we're looking at --

14 **Q. Explain what you're doing, because the court
15 reporter has to write it down.**

16 A. Yes, of course. I'm just taking all of the
17 fractions that have been filled in and I am now turning
18 them into just an expression as a percentage. So one
19 divided by two in the first line, I'm writing down .5. In
20 the second line I'm writing down a zero. In the third
21 line I'm writing one divided by three, so .3. For the
22 next line for 2003 I'm taking one divided by two. The
23 next line zero, then zero, zero, zero, zero, zero. Then
24 one divided by three.

25 **Q. And what year are you in now?**

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<p style="text-align: right;">Page 341</p> <p>1 A. I'm now down to 2014. So .33. And then in 2 2015, one divided by two. 3 Q. .5? 4 A. Yes. Thank you; .5. And then on the other 5 side we just have a lot of one divided by seven, which is 6 .143 rounded. Then we have a zero, a zero, a .143, a 7 .143, zero, a .143, zero, and then another -- so now we 8 have a two divided by seven which is .286, then we have 9 another of those, and then another .286, and then we have 10 another .143. So that is how I would fill out that table. 11 Q. Okay. So can we just get to the cumulative 12 then, so if you would -- and let's keep it all equal, so 13 let's take it to two decimal points for both Mr. Cooper's 14 plan and for what actually happened. 15 A. So .5, plus .33, plus .5, plus .5, plus .33, 16 plus .5, plus .33, plus .5. 17 Q. What does that equal? 18 A. 2.16. And then -- 19 Q. I'll read them off to you. 20 A. Okay. 21 Q. Point 14, point 14, point 14, point 14, point 22 28, point 28, point 28, point 14. 23 A. So 1.12. 24 Q. All right. So what do you conclude from this 25 sheet of paper?</p>	<p style="text-align: right;">Page 343</p> <p>1 A. Hogshead and Brown. 2 Q. And are they statistically significantly 3 different from each other as far as preference? 4 A. No. I think we determined that they are not. 5 Q. Is Thomas significantly -- statistically 6 significantly different, however, compared to Hogshead and 7 Brown? 8 A. Yes. 9 Q. So in essence, Hogshead and Brown are tied for 10 second place, correct, as the minority-preferred 11 candidate? 12 A. Under this -- under this approach, yes. 13 Q. And who won that election? 14 A. Brown and Hogshead were the winners. 15 Q. So is it reasonable then, since Hogshead and 16 Brown were the same statistically, to say that the second 17 minority-preferred candidate for African-Americans 18 actually won in that election since they both won in that 19 election? 20 A. That would be -- 21 Q. Am I making sense? 22 A. Yeah. Given the approach that is taken, that 23 has been -- that this exercise involved, if we adopt that 24 approach, then we would say that there's a tie for the 25 second -- second candidate of choice, and they both won,</p>
<p style="text-align: right;">Page 342</p> <p>1 A. I would conclude that the existing at-large 2 system -- I mean I think this is a -- you know, it's 3 difficult to make a comparison like this, but being asked 4 to make this kind of comparison, it suggests to me that 5 the success of African-American candidates, at least as 6 determined by this model, as predicted by this model in a 7 hypothetical world in which we divide the district up into 8 Mr. Cooper's seven districts, that the hypothetical 9 success of African-American candidates, based on the -- 10 based on what we know about those years, would have given 11 us that we were better off, slightly better off under the 12 existing system. 13 Q. Okay. Could you please look at your Rodden 14 Exhibit 11 and also compare that with Rodden Exhibit 13, 15 and I just want to look at one year here. I have a 16 question regarding 2013. 17 A. The other exhibit was 13? 18 Q. Yes. 19 A. Okay. 20 Q. I would like to look at 2013, and no doubt 21 that in 2013 you previously said that Henson with .38, 38 22 percent, was the most preferred candidate of 23 African-Americans, correct? 24 A. Correct. 25 Q. And the next two highest were who?</p>	<p style="text-align: right;">Page 344</p> <p>1 so it is -- it seems -- it seems just as -- under that 2 approach, it seems just as consistent with that approach 3 as -- or it seems more reasonable in many ways to go ahead 4 and say that both of these were tied for the second 5 candidate of choice, and second candidate of choice was 6 elected since both of them were elected. 7 Q. So it would be reasonable to change that -- 8 A. How we want to count things is another matter, 9 but I think that is -- that is hard to escape as a 10 conclusion. 11 Q. So it could be said then that there was a 12 successful minority-preferred candidate that won in 2013; 13 is that right? 14 A. Under that approach, yes. 15 Q. And that would change the numbers slightly, 16 but they would change? 17 A. Yes. We would -- we would revisit Exhibit 13 18 and we would -- this is the one that was looking -- no. 19 Exhibit 13 is -- this is the one in which we used the -- 20 Q. Right. 21 A. -- the hypothetical exercise in which we use 22 confidence intervals as a rule of thumb to determine the 23 candidates of choice. So what we are now putting on the 24 table is that these two candidates are tied, they both 25 won, therefore we will change -- we will write down that</p>

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<p style="text-align: right;">Page 345</p> <p>1 Hogshead, Brown are victorious.</p> <p>2 Q. In 2013.</p> <p>3 A. Sorry. Wrong year.</p> <p>4 Q. So that would change that chart to be there</p> <p>5 were two minority-preferred candidates, correct?</p> <p>6 A. Who were tied for the second slot, and one of</p> <p>7 them was victorious, and so we would have to change this</p> <p>8 number zero to one in the column that says -- entitled</p> <p>9 Number Successful on the year 2013. That is -- that is</p> <p>10 how that seems to work.</p> <p>11 Q. Okay. All right. So when we would add up the</p> <p>12 total, the number of preferred candidates would increase</p> <p>13 by one to 20, and the number of successful would increase</p> <p>14 by one to eight; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. All right. And then when we look back</p> <p>17 to the last five years -- 10 years and five years, both of</p> <p>18 those numbers -- all of those numbers would increase by</p> <p>19 one as well, correct?</p> <p>20 A. Yes, so 13 and five --</p> <p>21 COURT REPORTER: I'm sorry. I can't hear you.</p> <p>22 Q. You have to speak up.</p> <p>23 A. I'm sorry. The line entitled Last 10 Years,</p> <p>24 the column entitled Number of Preferred Candidates will</p> <p>25 now be 13, and the column entitled Number of Successful</p>	<p style="text-align: right;">Page 347</p> <p>1 49,009 and divide that by two, so we're talking about</p> <p>2 2,400 -- I'm sorry -- 24,000 rather 504.5, so a majority</p> <p>3 of the voting age population would be 24,505. And so what</p> <p>4 we have in terms of voting age single race</p> <p>5 African-Americans is we have 24,505 minus 24,313, so</p> <p>6 single race African-Americans are short of a majority by</p> <p>7 192 individuals.</p> <p>8 Q. And so when we look at the other VAP number of</p> <p>9 956, correct --</p> <p>10 A. Right.</p> <p>11 Q. -- only 192 of those other VAP would need to</p> <p>12 be any part African-American in order for the any part</p> <p>13 black voting age population to be a majority; is that</p> <p>14 right?</p> <p>15 A. That's correct. So that's -- yeah, that's 192</p> <p>16 of -- what number did we say was the -- let's see here.</p> <p>17 192.</p> <p>18 Q. What are you doing now?</p> <p>19 A. I just --</p> <p>20 Q. There's no question on the table.</p> <p>21 A. Okay.</p> <p>22 Q. So what exactly are you --</p> <p>23 A. Okay. Nothing. I misunderstood.</p> <p>24 Q. Okay. I just want to talk briefly about the</p> <p>25 Montana situation and I want to ask you if you have --</p>
<p style="text-align: right;">Page 346</p> <p>1 will now be five. And the line entitled Last Five Years</p> <p>2 under the column Number of Preferred Candidates would now</p> <p>3 be nine, and the column called Number of Successful on the</p> <p>4 line called Last Five Years will now be a three.</p> <p>5 Q. I realize it's a minor point, but one I wanted</p> <p>6 to make. I'm going to change gears now briefly, and</p> <p>7 plaintiffs' counsel asked you at one point to use -- to</p> <p>8 add up -- let me get to my -- he asked you to look at</p> <p>9 Rodden Exhibit 9, which is this one right here, I believe.</p> <p>10 A. Right.</p> <p>11 Q. And for 2012 add up all the white VAP, all the</p> <p>12 black VAP and all the other VAP, correct, and determine</p> <p>13 what the actual feedback was for 2012. Do you remember</p> <p>14 doing that? Do you remember adding those up and dividing</p> <p>15 the total number?</p> <p>16 A. I believe I still have the paper here, yes.</p> <p>17 Q. And do you remember what percentage was --</p> <p>18 A. I'm sorry. What percentage what was?</p> <p>19 Q. What percentage was the B-VAP.</p> <p>20 A. Single race African-American was 49.6. Yeah,</p> <p>21 that's all right here.</p> <p>22 Q. Do you have any way to calculate how many</p> <p>23 people, actual people that would be in order to have a</p> <p>24 majority B-VAP? What are we talking difference-wise?</p> <p>25 A. Sure. So we can just take -- we can just take</p>	<p style="text-align: right;">Page 348</p> <p>1 have you been notified that any charges have been filed?</p> <p>2 A. No.</p> <p>3 Q. By Montana, the prosecutor in the county in</p> <p>4 which the Commissioner referred his findings?</p> <p>5 A. No. I would like to believe I would be</p> <p>6 informed if that had happened, and I've not been informed.</p> <p>7 Q. And did you receive any sort of reprimand from</p> <p>8 Stanford as a result of this situation?</p> <p>9 A. No. They did a thorough internal</p> <p>10 investigation and there were no -- there was no reprimand</p> <p>11 following from that.</p> <p>12 MS. ORMSBY: All right. I don't have any</p> <p>13 further questions.</p> <p>14 * * * * *</p> <p>15 RE-DIRECT EXAMINATION,</p> <p>16 QUESTIONS BY MR. HO:</p> <p>17 Q. I just have a few, Dr. Rodden.</p> <p>18 A. Okay.</p> <p>19 Q. Let me just do them really quickly, without</p> <p>20 taking a break, and we can be done for the day.</p> <p>21 A. Okay.</p> <p>22 Q. So you and Ms. Ormsby discussed this new</p> <p>23 exhibit Defendants' Exhibit Q which we filled out which</p> <p>24 purports to compare the number of successful black</p> <p>25 candidates in the existing at-large system to Mr. Cooper's</p>

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<p style="text-align: right;">Page 349</p> <p>1 Illustrative Plan 2, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And you also discussed what's in Chen Exhibit</p> <p>4 A, your supplemental report with Dr. Chen, and Table 2 on</p> <p>5 Page 8 of that report.</p> <p>6 MS. ORMSBY: I'll ask you to clarify when he</p> <p>7 talked to Dr. Chen regarding the report.</p> <p>8 MR. HO: I didn't ask about whether he talked</p> <p>9 to Dr. Chen about it.</p> <p>10 MS. ORMSBY: Oh, I --</p> <p>11 MR. HO: He talked to you about --</p> <p>12 MS. ORMSBY: Oh, I'm sorry. I thought you</p> <p>13 said Dr. Chen. I'm sorry.</p> <p>14 MR. HO: No.</p> <p>15 MS. ORMSBY: I'm sorry. Can you repeat your</p> <p>16 question? Because I misunderstood it.</p> <p>17 Q. (By Mr. Ho) Yeah. I want to ask you about</p> <p>18 these two different tables, Table 2 on Page 8 of Chen</p> <p>19 Exhibit A which you're holding in your hand right now, so</p> <p>20 Page 8, Table 2.</p> <p>21 A. Okay. Yes.</p> <p>22 Q. And Defendant's Exhibit Q which you just</p> <p>23 filled out.</p> <p>24 A. Yes.</p> <p>25 Q. Now, these tables purport to show the number</p>	<p style="text-align: right;">Page 351</p> <p>1 voting patterns would remain the same in an at-large or</p> <p>2 single member district arrangement, correct? You didn't</p> <p>3 build into this model any potential change in, say,</p> <p>4 turnout levels under a single member district plan as</p> <p>5 opposed to an at-large plan, correct?</p> <p>6 A. Yes. We had no way of imagining what those</p> <p>7 turnout differences might be.</p> <p>8 Q. Have you ever seen any research on whether or</p> <p>9 not turnout is different under single member districts as</p> <p>10 opposed to at-large systems?</p> <p>11 A. Not comparing at-large with single member. I</p> <p>12 know there's a large literature suggesting that turnout is</p> <p>13 higher in systems with proportional representation than</p> <p>14 under single turnout, typically very low in single member</p> <p>15 district systems, one of the lowest turnout electoral</p> <p>16 forms in comparative politics.</p> <p>17 Q. Have you looked at any academic literature</p> <p>18 whether minority turnout specifically is higher or lower</p> <p>19 under single member districting plans in which minorities</p> <p>20 are a majority of a district?</p> <p>21 A. No.</p> <p>22 Q. I want to ask a few questions, Dr. Rodden,</p> <p>23 about Exhibit 9, the ACS estimates for population in 2012</p> <p>24 that you just went over with Ms. Ormsby.</p> <p>25 A. The exhibit number again?</p>
<p style="text-align: right;">Page 350</p> <p>1 of African-American candidates who would be elected under</p> <p>2 these various electoral arrangements, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Now, they do not show the number of</p> <p>5 African-American preferred candidates, as you would define</p> <p>6 that term, who would be successful under these electoral</p> <p>7 arrangements, correct, Dr. Rodden?</p> <p>8 A. No. We didn't have any way of assessing that,</p> <p>9 given this approach. This was an attempt at understanding</p> <p>10 the effectiveness of Mr. Cooper's plans in potentially</p> <p>11 electing minority candidates and we devised the best</p> <p>12 strategy we could for answering that question.</p> <p>13 Q. But it's not an attempt to assess the</p> <p>14 effectiveness of Mr. Cooper's plan in terms of electing</p> <p>15 African-American preferred candidates who may or may not</p> <p>16 be African-American, correct?</p> <p>17 A. We couldn't think of a way to make that -- to</p> <p>18 do that, that's correct.</p> <p>19 Q. Okay. And this table -- both of these tables,</p> <p>20 Table 2 in the report, and Defendant's Q, they assume that</p> <p>21 under Mr. Cooper's illustrative plans, that all seven</p> <p>22 seats would be up for election at the same time, correct?</p> <p>23 A. That was our understanding of what Mr. Cooper</p> <p>24 was proposing.</p> <p>25 Q. Okay. And these estimates also assume that</p>	<p style="text-align: right;">Page 352</p> <p>1 Q. Nine.</p> <p>2 A. I'll find it.</p> <p>3 Q. There you go. Now, the column that says 2012,</p> <p>4 these are the numbers -- I'm sorry. The row with the year</p> <p>5 2012 in the third column, do you see what I'm referring</p> <p>6 to, Dr. Rodden?</p> <p>7 A. Yes.</p> <p>8 Q. That was the row of numbers that you just went</p> <p>9 over with Ms. Ormsby, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And this is ACS data, the three-year estimates</p> <p>12 for 2011 through 2013 which you present as voting age</p> <p>13 population for the school district in 2012, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And we established earlier that the ACS</p> <p>16 numbers have error margins associated with them, correct?</p> <p>17 A. Correct.</p> <p>18 Q. There are confidence intervals, correct?</p> <p>19 A. Yes, correct.</p> <p>20 Q. What you represent in this row are the point</p> <p>21 estimates, correct?</p> <p>22 A. Correct.</p> <p>23 Q. And we don't know, do we, whether or not the</p> <p>24 numbers in each of these columns could be higher or lower</p> <p>25 than the point estimate, the true value I mean, could be</p>

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<p style="text-align: right;">Page 353</p> <p>1 higher or lower than that point estimate?</p> <p>2 A. It could be.</p> <p>3 Q. There is a range of numbers that we know to a</p> <p>4 degree of statistical certainty of about 95 percent for</p> <p>5 the true value these numbers could be?</p> <p>6 A. And I don't present those confidence intervals</p> <p>7 here, correct. I believe they're in the table somewhere.</p> <p>8 Q. But the numbers that you were going over with</p> <p>9 Ms. Ormsby, those were the point estimate numbers,</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. So when you say that 100 more -- or I think</p> <p>13 you said about 140 more people would give African</p> <p>14 Americans a majority of the voting age population in the</p> <p>15 Ferguson-Florissant school district, that's using the</p> <p>16 point estimates, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And the number could actually be more than</p> <p>19 that if you take confidence intervals into account,</p> <p>20 correct, Dr. Rodden?</p> <p>21 A. Just as likely to be lower than that.</p> <p>22 Q. But we don't know either way, correct?</p> <p>23 A. We don't know.</p> <p>24 Q. Okay. You went over Exhibit 13 with Ms.</p> <p>25 Ormsby, Dr. Rodden, Exhibit 13, right?</p>	<p style="text-align: right;">Page 355</p> <p>1 minority-preferred candidate, five out of the 13</p> <p>2 minority-preferred candidates were successful, correct?</p> <p>3 A. Correct.</p> <p>4 Q. So a majority of the black-preferred</p> <p>5 candidates in the last 10 years, using this decision rule</p> <p>6 to determine who's a black-preferred candidate, were</p> <p>7 unsuccessful, correct?</p> <p>8 A. Correct.</p> <p>9 Q. And the percentage of successful</p> <p>10 black-preferred candidates over the last 10 years, using</p> <p>11 this decision rule, is lower than the percentage of</p> <p>12 successful black-preferred candidates over the entire span</p> <p>13 here, correct?</p> <p>14 A. Correct.</p> <p>15 Q. And if we just use the last five years of</p> <p>16 elections, using this decision rule to determine who's a</p> <p>17 black-preferred candidate, three out of the nine</p> <p>18 black-preferred candidates were successful, correct?</p> <p>19 A. Correct.</p> <p>20 Q. And a majority of black-preferred candidates,</p> <p>21 using this decision rule to determine who's a</p> <p>22 black-preferred candidate, were unsuccessful over the past</p> <p>23 five years, correct?</p> <p>24 A. That's correct.</p> <p>25 Q. And looking at the last five years alone, the</p>
<p style="text-align: right;">Page 354</p> <p>1 A. Yes.</p> <p>2 Q. And just so the record is clear, Exhibit 13 is</p> <p>3 -- this is the one in which we used the decision rule</p> <p>4 about statistical significance for assessing who is a</p> <p>5 black-preferred candidate and who is a white-preferred</p> <p>6 candidate, correct?</p> <p>7 A. Correct.</p> <p>8 Q. This is the decision rule that you would not</p> <p>9 endorse, correct?</p> <p>10 A. That's correct.</p> <p>11 Q. But using that decision rule and using this</p> <p>12 chart, right, if we look at the total, there are, after</p> <p>13 the revisions that you just made, 20 black-preferred</p> <p>14 candidates over the past -- over all of the elections that</p> <p>15 you consider back to 2000, correct?</p> <p>16 A. Correct.</p> <p>17 Q. And eight out of 20 of those black-preferred</p> <p>18 candidates were successful, correct?</p> <p>19 A. Correct.</p> <p>20 Q. So a majority of the black-preferred</p> <p>21 candidates, using this decision rule, were unsuccessful,</p> <p>22 correct?</p> <p>23 A. That is correct.</p> <p>24 Q. And if we just look at the last 10 years,</p> <p>25 using this decision rule to assess who's a</p>	<p style="text-align: right;">Page 356</p> <p>1 success rate of black-preferred candidates is lower than</p> <p>2 looking at the last 10 years, correct?</p> <p>3 A. That is -- I'm sorry. Last five years is</p> <p>4 lower than -- yes, that is still true, yes.</p> <p>5 Q. Okay. And just so the record is really clear,</p> <p>6 you have two decision rules that you propose and would</p> <p>7 endorse as a political scientist to assess who's a</p> <p>8 minority-preferred candidate in your report, correct?</p> <p>9 A. Correct.</p> <p>10 Q. One is the highest-ranked black candidate is</p> <p>11 the minority-preferred candidate and we ignore the rest,</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. And the results of that -- the results of</p> <p>15 applying that decision rule to minority candidates'</p> <p>16 success in the Ferguson-Florissant school district are</p> <p>17 represented in Exhibit 18, correct?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. And the other decision rule you propose</p> <p>20 and that you would endorse as a political scientist for</p> <p>21 assessing who's a minority-preferred candidate by using</p> <p>22 just the highest point estimate, the highest two point</p> <p>23 estimate in a two-seat election and the highest three</p> <p>24 point estimate in a three-seat election, correct?</p> <p>25 A. Correct.</p>

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<p style="text-align: right;">Page 357</p> <p>1 Q. Okay. And those are the only two decision 2 rules that you propose and that you would endorse in 3 assessing who's a minority-preferred candidate, correct? 4 A. Correct. 5 Q. And using that point estimate decision rule, 6 minority-preferred candidate success as compared to 7 white-preferred candidate success is accurately reflected 8 in Exhibit 12, correct? 9 A. Correct. 10 Q. And it is true, is it not, Dr. Rodden, that 11 using this decision rule that you endorse as a political 12 scientist of using the point estimates to determine who is 13 a minority-preferred candidate, that a majority of 14 minority-preferred candidates have not won elections in 15 the contested elections from 2000 through 2015, correct? 16 A. In the contested elections, that is correct. 17 Q. And if we just look at the last 10 years, 18 using this decision rule of point estimates to determine 19 who are minority-preferred candidates, a majority of 20 minority-preferred candidates were not successful over the 21 last 10 years; is that correct? 22 A. That's correct. 23 Q. Six out of 16 minority-preferred candidates 24 were successful in the last 10 years, using this decision 25 rule, as opposed to 13 out of 27 over the entire time</p>	<p style="text-align: right;">Page 359</p> <p>1 A. That's correct. 2 Q. Okay. And in each instance of a rate of 3 success for minority-preferred candidates, whether we look 4 at the entire time frame, the last 10 years, or the last 5 five years, using this definition of preferred candidates 6 as those candidates with the highest point estimate of 7 support, in each instance the white-preferred candidate 8 success rate exceeds the black-preferred candidate success 9 rate, correct? 10 A. That's correct. 11 Q. Okay. Sorry. Very briefly, and then we're 12 finished, I promise. Exhibit 18, this is the other 13 decision rule that you propose, correct? 14 A. Yes. 15 Q. For assessing who's a preferred minority 16 candidate. We did the highest point estimate, and we will 17 explore the other one, correct? 18 A. Correct. 19 Q. When we look at this, the overall success rate 20 for top-ranked candidates amongst African-Americans, using 21 this decision rule, is six out of 12 or 50 percent 22 exactly, correct, Dr. Rodden? 23 A. Correct. 24 Q. And but if we look at just the last 10 years, 25 the success rate is three out of seven minority-preferred</p>
<p style="text-align: right;">Page 358</p> <p>1 period, correct? 2 A. Correct. 3 Q. So if we look at just the last 10 years 4 compared to the entire time period, the rate of 5 minority-preferred candidates' success is smaller in the 6 last 10 years as compared to the entire time frame 2000 to 7 2015? 8 A. But as I've testified repeatedly, that is 9 based on some elections that were won by exceedingly small 10 number of votes, and a very small number of votes would 11 change those results substantially. 12 Q. But that didn't happen, right, Dr. Rodden? 13 This is what happened, what's reflected in Exhibit 12, 14 correct? 15 A. That's correct. 16 Q. And in the last five years, using a decision 17 rule that you endorse as a political scientist in your 18 position, using point estimates in determining 19 minority-preferred candidates, four out of 12 20 minority-preferred candidates were successful during the 21 last five years, correct? 22 A. Correct. 23 Q. And that's a lower rate of success for 24 minority-preferred candidates in the last five years than 25 we saw in the last 10 years, correct, Dr. Rodden?</p>	<p style="text-align: right;">Page 360</p> <p>1 candidates, using this decision rule of the top-ranked 2 minority candidates, correct? 3 A. Correct. 4 Q. So the success rate for minority-preferred 5 candidates, using this decision rule of top-ranked 6 candidates among minority voters, is lower in the last 10 7 years as compared to the time frame as a whole, correct, 8 Dr. Rodden? 9 A. Correct. 10 Q. And if we look at just the last five years and 11 just look at top-ranked members -- or the top-ranked 12 candidates among which you endorse as a decision rule for 13 assessing who is a preferred candidate, the success rate 14 is two out of five, correct? 15 A. Correct. 16 Q. And that is a lower success rate for 17 minority-preferred candidates when we look at just the 18 last five years as compared to the time frame as a whole, 19 again using your definition of minority-preferred as the 20 highest-ranked candidate amongst minority voters, correct? 21 A. Correct, but the impression of a downward 22 trend is very much, as I have said many times, is 23 something that depends on a very small margin. Again, 24 we're talking about a very small number of seats, so it's 25 not very -- the characterization of this as a strong</p>

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<p style="text-align: right;">Page 361</p> <p>1 downward trend is one that I would disagree with. But I</p> <p>2 agree that when you cut the data in exactly the way that</p> <p>3 you have proposed, one can come away from this table with</p> <p>4 the impression of a downward trend in the success of</p> <p>5 African-American candidates, but of course we know that</p> <p>6 African-American candidates have been more successful in</p> <p>7 recent years than in the past, because we know that the</p> <p>8 African-American voting age population has increased.</p> <p>9 Q. Now, if you just compare the white-preferred</p> <p>10 candidate success rate to the African-American preferred</p> <p>11 candidate success rate, just using this decision rule to</p> <p>12 determine who's a preferred candidate, that is the</p> <p>13 top-ranked candidate among each group, the white-preferred</p> <p>14 candidate success rate exceeds the black-preferred</p> <p>15 candidate success rate regardless of whether you use the</p> <p>16 entire time period, the last 10 years or the last five</p> <p>17 years, correct, Dr. Rodden?</p> <p>18 A. That's correct.</p> <p>19 Q. And in fact, the top-ranked white-preferred</p> <p>20 candidate never lost?</p> <p>21 A. Using this approach, that's correct.</p> <p>22 Q. An approach that you use and endorse as a</p> <p>23 plausible decision rule for assessing who is a preferred</p> <p>24 candidate, the whites and minorities, correct?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">Page 363</p> <p>1 A. Miscalculation of what kind?</p> <p>2 Q. Your calculation of the voting age population</p> <p>3 that is African-American would be incorrect, right, Dr.</p> <p>4 Rodden?</p> <p>5 A. Are you asking me about the denominator of --</p> <p>6 Q. Yeah, that changes the denominator, wouldn't</p> <p>7 it, it terms of total voting age population in</p> <p>8 Ferguson-Florissant school district if there were</p> <p>9 individuals who are Asian Alone or American Indian alone?</p> <p>10 A. Potentially slight increase. It would</p> <p>11 potentially make a small difference in the number we</p> <p>12 calculated earlier, but this is the number that the ACS</p> <p>13 provides for the population of the school district that is</p> <p>14 above the age of 18 in my download of the data.</p> <p>15 MR. HO: Okay. I don't think I have any</p> <p>16 further questions. Just one second. I think we are</p> <p>17 finished.</p> <p>18 MS. ORMSBY: Okay. Thank you. I don't have</p> <p>19 anything else. We are not waiving signature and I would</p> <p>20 like an E-tran.</p> <p>21</p> <p>22 (The deposition concluded at approximately 7:57 P.M.)</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 362</p> <p>1 Q. One last question, Dr. Rodden. In the ACS</p> <p>2 data that you report in Exhibit 9, right, you count some</p> <p>3 individuals as -- in terms of calculating the voting age</p> <p>4 of people, white alone, you count some individuals as</p> <p>5 black alone and then you have a mixed race group, correct,</p> <p>6 Dr. Rodden?</p> <p>7 A. Yes.</p> <p>8 Q. You don't report anyone as Asian or American</p> <p>9 Indian alone in 2012 according to the ACS, correct?</p> <p>10 A. Because the ACS data are not there.</p> <p>11 Q. Correct. If you were to learn, in fact, there</p> <p>12 is ACS data indicating there are individuals in the</p> <p>13 Ferguson-Florissant school district who are Asian alone or</p> <p>14 American Indian alone, that would mean there is some</p> <p>15 miscalculations in this exhibit, correct?</p> <p>16 A. It means this is a group that was not small</p> <p>17 enough for them to provide breakdown in the ACS. But</p> <p>18 there were breakdowns provided in the -- in the overall</p> <p>19 population, the breakdowns are missing in the age-specific</p> <p>20 data.</p> <p>21 Q. So my question was if you were to learn that</p> <p>22 the ACS, in fact, recorded individuals of voting age</p> <p>23 population who are Asian alone and American Indian alone,</p> <p>24 that would mean there is a miscalculation in this chart,</p> <p>25 correct, Dr. Rodden?</p>	<p style="text-align: right;">Page 364</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2</p> <p>3 I, BETH O. ZINK, a Registered Professional</p> <p>4 Reporter, Missouri Certified Court Reporter, Illinois</p> <p>5 Certified Shorthand Reporter and Notary Public within and</p> <p>6 for the State of Illinois, do hereby certify that the</p> <p>7 witness whose testimony appears in the foregoing</p> <p>8 deposition was duly sworn by me; that the testimony of</p> <p>9 said witness was taken by me to the best of my ability and</p> <p>10 thereafter reduced to typewriting under my direction; that</p> <p>11 I am neither counsel for, related to, Knorr employed by</p> <p>12 any of the parties to the action in which this deposition</p> <p>13 was taken, and further, that I am not a relative or</p> <p>14 employee of any attorney or counsel employed by the</p> <p>15 parties thereto, Knorr financially or otherwise interested</p> <p>16 in the outcome of the action.</p> <p>17</p> <p>18</p> <p>19</p> <p>20 _____</p> <p>21 Notary Public within and for the</p> <p>22 State of Illinois, ILCSR#084-004477</p> <p>23 MOCCR#799</p> <p>24</p> <p>25</p>

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 8 St. Louis, Missouri 63105
 9 Attn: Ms. Cindy Ormsby
 10 In Re: Missouri NAACP, et al. vs. Ferguson-Florissant
 11 School District, et al.
 12
 13 Dear Ms. Ormsby:
 14
 15 Please find enclosed your copy of the deposition of
 16 Jonathan Rodden, Ph.D., taken on August 20, 2015 in the
 17 above-referenced matter. Also enclosed is the original
 18 signature page and errata sheet.
 19 Please have the witness read your copy of the transcript,
 20 indicate any changes and/or corrections desired on the
 21 errata sheet, and sign the signature page before a notary
 22 public.
 23
 24 Please return the errata sheet and notarized signature
 25 page to Mr. Dale Ho for filing prior to date of trial.
 Thank you for your attention to this matter.
 Sincerely,
 Beth O. Zink, RPR
 MO-CCR#799, IL-CSR084.004477
 Encl:
 CC: Mr. Dale Ho

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1 WITNESS ERRATA SHEET
 2
 3 Witness Name: JONATHAN RODDEN, Ph.D.
 4 Case Name: Missouri NAACP, et al. vs. Ferguson-Florissant
 5 School District, et al.
 6 Date Taken: August 20, 2015
 7
 8 Page # _____ Line # _____
 9 Should Read: _____
 10 Reason for Change: _____
 11
 12 Page # _____ Line # _____
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 14 Reason for Change: _____
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 16 Page # _____ Line # _____
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 20 Page # _____ Line # _____
 21 Should Read: _____
 22 Reason for Change: _____
 23
 24 Page # _____ Line # _____
 25 Should Read: _____
 Reason for Change: _____
 Witness Signature: _____

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1 STATE OF _____)
 2)
 3 COUNTY OF _____)
 4
 5 I, JONATHAN RODDEN, Ph.D., do hereby certify:
 6 That I have read the foregoing deposition;
 7 That I have made such changes in form and/or
 8 substance to the within deposition as might be necessary
 9 to render the same true and correct;
 10 That having made such changes thereon, I hereby
 11 subscribe my name to the deposition.
 12 I declare under penalty of perjury that the
 13 foregoing is true and correct.
 14
 15 _____
 16 JONATHAN RODDEN, Ph.D.
 17
 18 Executed this _____ day of _____, 2015,
 19 at _____.
 20
 21 My Commission Expires: _____
 22 Notary Public: _____
 23
 24 Signature page to Crotzer & Ormsby, 8/25/2015
 25 BOZ/Jonathan Rodden, Ph.D., 8/20/2015
 Missouri NAACP, et al. vs. Ferguson-Florissant School
 District, et al.

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